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CHRIST IN MODERN THOUGHT.

BY THE REV. PHILIP S. MOXOM.

In undertaking to discuss this subject within reasonable limits, one is confronted by several very considerable difficulties. The *first* is the difficulty of delimiting the territory over which the discussion properly may range. Modern thought suggests a very large field. It comprises Literary, Scientific, Philosophical and Ethical as well as Theological thought. If it be claimed that the implications of the theme naturally confine the discussion to the field of distinctively theological thought, it still must be said that the limitation is not precise, since in our day thought on the central elements and main questions of Christianity has diffused itself over the fields of literature and science and philosophy and ethics to such an extent that one who restricts his view to the precincts of technical theology will comprehend but a fraction of the field in which the person of Christ is a prominent if not always the pre-eminent subject of consideration. The scientific mind of our time, to some extent at least, is seeking to interpret Christ in the terms of evolution. The literary mind is more and more distinctly drawing the person and teachings of Christ within the sphere of literary expression and interpretation. A score of recent works of fiction might be named in a few minutes in which Christ more or less explicitly appears as the source of the

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writer's inspiration, while almost every day the press sends forth a volume of critical or sympathetically interpretative essays of which account must be taken by one who would form a judgment on the place which the person of Christ holds in modern thought.

If by a somewhat arbitrary and trenchant exercise of his judgment one excludes from view all parts of the general field save that which properly may be designated as theological, a very considerable territory remains in which there exists a confusing diversity of thought.

Theological thinkers of our time may be roughly divided into three classes or parties, each of which coheres in a dominant spirit and a main point of view.

There are (1) the *Conservatives,* who maintain in general the theological opinions of a past generation, such as are represented in the writings of Hodge and Shedd in this country, Liddon in England and Luthardt and Van Oosterzee on the Continent. (2) The *Progressives,* or *Radicals,* who accept the principles of the divine immanence and evolution as the interpretative and structural principles in theology and shrink from no legitimate consequences of literary and historical criticism applied to the Sacred Scriptures. These are numerous in America, England, Germany and Holland. In France the late distinguished Auguste Sabatier is, perhaps, the chief representative of this party. (3) The *Moderates,* who constitute a mediating party between the preceding. These seek to hold the substance of the older theology, but endeavor to restate it in the phrases and in accordance with the scientific methods of the new thought.

In point of numbers, the first party is diminishing mainly by the natural course of death; the second is rapidly growing; while the third, larger perhaps at present than either of the others, loses many more by the advance of its members into the progressive party than it gains by recruits from the conservatives.

In studying the thought of these three parties, one finds it difficult to discover more than two or three points at which there is any real unity of opinion between them. Of these the one that stands out most clearly and that most surely draws their belief to a common centre is the pre-eminence of Christ as the revealer of God and the teacher of truth concerning the moral life. Just here, where dogmatic difference is widest, essential moral *rapport* is closest.

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A *second* difficulty by which one is confronted in discussing this theme is the difficulty of distinguishing between the main tendencies and characteristics of modern thought on the person of Christ and his own personal beliefs. It would be comparatively an easy task for him to set forth in detail his own views and convictions and thus make his statement a confession and defence of his own faith. This I say with deliberate caution would be only comparatively an easy task; positively it might be very difficult. In the present ferment of speculation on questions of religion not many of even the most studious and intelligent inquirers could readily and exactly define more than a few of the simplest elementary principles around which their religious thinking is organized or is in process of organization. Doubtless an exception should be made in the case of those thinkers who have held the Calvinistic scheme of thought unchanged through all the stages of the theological revolution in the midst of which we are living. In this respect the thoroughgoing conservative has the advantage over the progressive, for he simply shuts his eyes to the confusing entrance of new light and suffers no pulse of influence from science with its multiform revelations from Biology, Anthropology, Archæology, History and Criticism to reach and affect his theological system.

But if it would be a perplexing and arduous task for a man *en rapport* with the modern spirit to set forth in exact detail his own views and opinions on all the theological questions that cluster about the person of Christ it is a still more perplexing and arduous task to state at once with definiteness and adequate fulness the contents and characteristics of modern thought on the same general subject. The difficulty appears immediately when we reflect on the fact that modern theological thought from one point of view is a new product, while from another point of view it is a composite of almost all the elements and phases of Christian thinking that have arisen during the past three hundred and fifty years. Of this long period the century just closed has witnessed an increase in knowledge of the world, of the Bible and of the past life of humanity greater than was achieved in all the preceding centuries of the Christian era. This increase of knowledge has overturned or modified every theological theory and almost every theological principle that survived the intellectual convulsion of the Protestant Reformation; one need only men-

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tion, for example, the doctrines of Creation, of the Fall, of Atonement, of Biblical Revelation, of the Trinity and of the Future life to realize how great has been the change.

In the general scheme of theology each of these doctrines, or groups of doctrines, has been intimately related to the doctrine of the person of Christ.

A prominent, perhaps we should say the prominent, feature of the present theological *Aufklärung-sucht* is the critico-historical work of bringing into clearer light and greater definiteness the historical bases and antecedents of Christianity. This is the work, on the one hand, *of Biblical critics* and archæologists, and on the other hand of Biblical exegetes. Already this work has profoundly affected our conception of the Hebrew and Christian scriptures, especially the former, and as an inevitable result is reshaping the structure of distinctly Biblical Theology.

But scarcely less important in its influence on general theological theory is the work already accomplished and now in progress in the related fields of biological and psychological investigation. The combined results of these two critical and constructive intellectual movements of our time it is still too early to state with definiteness, but already enough is apparent to show that they will be greater than any save the few as yet surmise.

Without attempting to trace in detail the effect of the modern movement on the historic doctrine of the person of Christ, I shall endeavor to indicate briefly certain features of the emerging view of Christ which seem to me most prominent and most characteristic of the religious thought of our time. In doing this I shall speak as representing men who, in the modest and impressive language of the late Dr. Dale: "While not relaxing their hold on the Divine revelation which has come to them through Christ are asking for some more satisfactory intellectual account of the great truths which are their joy and strength. There is hardly a theological definition which they can accept without qualification; there is hardly a theological phrase which is not colored by speculations which seem to them incredible. They have not lost sight of sun and stars; they will tell you that with their increasing years the glory of the sun is brighter to them than ever and that the stars are more mysterious and divine, but they want a new astronomical theory. The sun and stars are God's

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handiwork; astronomical theories are the provisional human explanations of divine wonders."*

What I have to offer may be properly presented under two heads: 1, The Nature of Christ; 2, The Function of Christ. In this presentation I shall seek to interpret in general that thought of Christ which is already ascendant or is rapidly rising into ascendancy, and save with a very few exceptions I shall not pause to quote or even to designate specific authorities.

The Nature of Christ.—At the outset I may remark that the ancient phases of the controversy about Christ with which the history of doctrine has made us familiar have almost wholly passed out of sight. Docetism, Monophysitism and Monothelitism with their counter "isms" are now mainly, if not solely, of historical interest. No one to-day seriously disputes as to whether the Passion of Christ was a reality or only an appearance, and few give any consideration to the question as to whether Christ had one or two natures or one or two wills.

Nothing is more clear than the present recognition of the psychological as well as moral integrity of Christ. He is not two persons in one body, nor two consciousnesses in one person, nor two natures in one consciousness, nor two wills in one nature. From one point of view He is unequivocally human; from another point of view He is incontestably divine; from all points of view He is an ontological unity—all His faculties and affections having their centre in His undivided, uncomposite, self-conscious personality.

The traditions concerning the birth of Christ, which are not confined to the canonical gospels, but which have their most exquisite, though variant, expression in the first chapters of Matthew and Luke, evidently have little historical value; at least they afford too slight a basis for belief that Jesus was not born as other children are born. As a matter of fact, this belief, though still tenaciously held by the mass of Christians, has lost significance in the theological interpretation of the person of Christ. No word of Jesus's authentic teaching refers to it or is affected by it. No apostolic doctrine rests upon it. Moreover, its implications would seem to destroy the integrity of the apostolic Christology, since it would establish an anomalous relation, or rather a lack of perfect relation of Jesus to humanity. Be-

* Quoted in Fisher's "History of Christian Doctrine," page 556.

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sides, a miraculous birth in the common sense of that term adds absolutely nothing to the revelation of spiritual truth mediated by the life and teachings of Christ.

Thus by the process of exclusion the true and integral humanity of Christ has received especial emphasis in modern thought. Jesus of Nazareth was a man. He had the normal human birth, the human nature, the human development and the human experience. He was not a shadow man, the simulacrum of a man. His difference from other men lay in the unique perfection of his human character and the directness and completeness of his intercourse with God.

But is not the Christ divine? Was the battle of Athanasius against the Arian world a vain contest? Is the Nicene creed a meaningless formula? I believe with President King* that the Christian thought of to-day affirms the true divinity of Christ more positively and more profoundly than ever. But the approach to the question of his divineness is different from what it was in the past. The old familiar question, "Is Christ a *mere* man?" and the equally familiar affirmation, "He is *more* than man," were based on the conception of man that assumed to delimit human nature and to connote the entirety of human powers and possibilities. God and man were conceived as essentially and eternally separate and dissimilar.

But the modern mind has entered a new atmosphere and attained a new point of view in its thought both of God and of man. The divine transcendence is seen to be incomplete, if not impossible, apart from the divine immanence. The true lesson which science teaches, says T. H. Green, is that God is to be sought "in man himself," and he affirms "that relation of the inner man to a higher form of itself of which the expression is to be found, not in the propositions of the theology, but in prayer and praise—the prayer which asks for nothing, the praise which thanks for nothing but God's fulfilment of Himself—and in that effort after an ideal perfection which is the spring of the moral life."†

The idea of incarnation—the great idea for the validity of which Athanasius fought—is now more broadly conceived and more firmly grasped than at any time since the Arian contro-

* In his recent "Reconstruction in Theology."
† "The Witness of God and Faith." T. H. Green, pages 78, 79.

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versy; but it is no longer conceived as the union, in an anomalous person, of essentially discrete and dissimilar natures. Rather, it is apprehended as the immanence of God in the realm of human personality. God in His world is not perfectly manifested until He becomes God in the human soul.

Christ is at once human *and* divine—not man void of deity; not deity pure and simple, extensively as well as intensively identical with the infinite and absolute; not a *tertium quid,* a third order of being, neither purely human nor purely deific; but man in whom God is perfectly immanent, the God-filled man, and thus the type and ideal of man universally in the large purpose of God.

If we are perplexed by the difficulty of conceiving the human as interpenetrated by the divine without losing its true quality and integrity as human, we have only to consider that it is because of a defect in our idea of spirit or in our present experience. Indeed, there are human experiences which present the same problem while suggesting its solution by fact. Christ no more loses his integral humanity or becomes the subject of a double nature and consciousness by the perfect immanence of God in Him than any man will have lost his integral humanity and become the subject of a double nature and consciousness when the apostle's prayer shall be fulfilled and man shall have been "filled with all the fulness of God."

There is not space to press the discussion further in this paper, but it may be confidently affirmed that the reality of God in Christ, to a degree absolutely unique in the experience of humanity, is grasped by modern thought with a depth and fervor of conviction that gives it the force of revelation.

In a large part of their discussions Trinitarian and Unitarian alike have contended on the false basis of definitions, both of human nature and of the divine nature and their actual or possible modes of being, and of relation to each other, that were assumed to be exhaustive and final. In much of the discussion the use and the unconscious influence of materialistic terms have wrought confusion in the realm of spiritual ideas.

The historic doctrine of the Trinity is the historic witness to the Christian consciousness of the richness and manifoldness of the divine nature, but it is not a permanent and unchangeable formula of human thought about God. The truth in the doctrine

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lies not in its affirmation simply of divine threeness, but in the horizons beyond the horizon which it suggests to the aspiring mind that reaches after God and in its affirmation that in God is the full and perfect realization of those spiritual relations and activities which are the eternal ideal of the soul.

"Jesus," says Frederic Palmer, "is by nature human. Through the perfect union of His will with the divine will He becomes one with God; so that He is the son, or typical representative, of man and He is the Son, or typical and unique representative, of God; He is God become man. The truth of the Incarnation is that humanity raised to its highest power becomes divinity."*

2. The Function of Christ.—In what light and under what forms does modern thought conceive the function of Christ? The full answer of this question requires more space than I have already taken and more than I can reasonably take at this time. It will be sufficient, however, if I suggest and sketch the views a proper elaboration of which would require a volume.

(1) The primitive Christian mind contemplated Jesus preeminently as Teacher and Lord. It was upon this aspect that Jesus himself put emphasis. At a time when by the very force of circumstances He made the most intimate and profound disclosures of His real relations to His disciples and therefore to mankind, He called Himself ὁ διδάσκαλος καὶ ὁ κύριος. The passage is John xiii, 12-16. The historical value of this gospel is, confessedly, the least of all; but the incident related seems by its character to be among the true memorabilia of Jesus; and, besides, on this point it is quite in accord with the representations of the Synoptists. Our English version of the New Testament obscures the Evangelic teaching by its perpetuation of the archaic term "master" as a translation of διδάσκαλος. Of the forty-nine times that this word occurs in the four gospels with reference to Jesus or as used by Him, it is rendered forty-six times by "master." In the earliest records and in the earliest Christian life the function of Jesus as teacher takes precedence of every other. Through the intrusion of sacerdotal and sacrificial ideas the Church soon almost entirely lost the conception of Christ as teacher. "From the time when the office of teacher disappeared from the ranks of the Christian ministry," says Professor Allen, "the function of Christ as the teacher also suffered

* "Studies in Theologic Definition," page 86.

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an eclipse."* The damage to Christian thought and life wrought by this declension from the true and spiritual idea of Christ constitutes the larger part of the tragedy of Church history. Every real reform in the subsequent faith and life of the Church, whether local or general, has been marked and motived by at least a partial return to the earliest idea, or rather by a reperception of it, and by a consequent new devotion to the veritable teachings of Christ.

Our own time witnesses a return to the primitive and truer conception. Says Professor Allen: "In the lives of Christ put forth in such profusion, or in the modern pulpit finding in the personality of the Christ of the Gospels an exhaustless source of interest and power, it is the moral character of Christ and His spiritual teaching that constitute Him the leader and the head of the race of man."†

A large part of the change in present Christian life and thought is distinctly due to the new emphasis which is put on the teaching of Christ as at once adequate and authoritative in the moral realm. The Church that so long has interpreted Christ through the sacrificial system of the Hebrews, on the one hand, or through the theological portions of the Pauline epistles, on the other, is now discovering the nature of true sacrifice in the spirit and life of Christ rather than in the mere fact and form of His death, and is interpreting and judging the doctrines of St. Paul through the teaching and personality of Christ. The change is as great and the gain will prove to be as positive in the religious realm, as the change was great and the gain has been positive in the astronomical realm by the transition from the Ptolemaic to the Copernican astronomy.

What Christ taught as to God and the soul and righteousness and the future life begins at last to take its rightful preeminence. The sacerdotal and sacrificial elements, which were mainly, if not entirely, imported into Christianity from Judaism and heathenism, occupy an ever-diminishing place in constructive theology.

(2) Christ is *the Teacher* not only in His sayings and precepts, but also in His character and life. Thus through His function as Teacher emerges His function as *Revealer*. In relation to Christ

* "Christian Institutions," page 385.
† *Ibid.*, page 383.

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and the totality of His expression of truth and of His impression on the mind of humanity Lessing's pregnant phrase is strictly accurate: "*Die Erziehung ist Offenbarung*" ("Education, or instruction, is revelation").

Christ is the revealer of God, especially in His nature as a moral personality and in His attitude and disposition toward man. In Him dwelt the moral fulness of God.

Upon this I need not dwell, since thinkers of all schools, however widely they may differ in conceiving and stating the function of Christ as the Revealer, agree in acknowledging the pre-eminence of His representation of the divine nature.

But He is also the Revealer of man—that is, He at once exhibits to us in Himself the ideal moral character and by His life illumines and reinforces His moral teaching. We must go even farther and say that He expresses in Himself the full spiritual content of the ideal human life.

In the exercise of His function as revealer Christ covers the entire field of experience as well as of intelligence. The self-sacrifice of love attains its fullest expression in His life and death. He discloses not merely truths, but also energies and capacities of moral being. All the elements of personality are engaged in the teaching and revealing process: the intellect, in immediate knowledge of God and righteousness and duty; the sensibility, in the entire range of moral perception and feeling—love, faith, pity, indignation, mercy, compassion; and the will, in the realization of perfect obedience to moral law not as mere acquiescence in authority, but as free response to spiritual attraction.

(3) Thus Christ addresses the heart as well as the reason and conscience. His personality fills and dominates the whole realm of human experience, so that through His function as Teacher and Revealer emerges His function as *Saviour*. He becomes the Saviour of men by communicating to them knowledge of God through personality, by awakening spiritual life in them through the engagement of their moral affections, and by leading them into the discipline of righteousness and love through the control and direction of their wills.

In each of His functions the totality of His nature, experience and power is engaged. As Saviour, He is also Teacher and Revealer; as Teacher and Revealer, He is also Saviour.

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In other words, He is never the mere functionary and there is no part of His work that is separable from any other. In fulfilling His mission He makes a sacrifice of himself, yet He is never merely an objective sacrifice; He teaches, yet is never in a merely pedagogical relation to men; He reveals God, yet is never the spectacular theophany. His work has the integrity of His person and is always vital. Once theology magnified the formal aspect of His mission as chiefly, if not entirely, sacrificial; Christian thought to-day has little sense of anything merely formal in that mission and concentrates itself on the reality and significance of the truths which He taught, the character at once human and divine which He presented and the power which He exerted, and still exerts in increasing degree, for the moral quickening and the spiritualization of human life.

The older theologians looked at Christ through a metaphysical idea of God; the later thinkers on Christianity are looking at God and man through the actual, historical Christ. And the actual, historical Christ, the more He is disencumbered of tradition and *à priori* theories of His nature and office in the world, rises in more colossal proportions upon the intellectual and moral vision of men, with the result that many whom the metaphysical Christ of theology repels are drawn to the real Christ with a trust and a love that say:

"If Jesus Christ is a man,—
And only a man,—I say
That of all mankind I cleave to Him
And to Him will I cleave alway.

"If Jesus Christ is a God,—
And the only God,—I swear
I will follow Him through heaven and hell,
The earth, the sea and the air!"

PHILIP STAFFORD MOXOM.

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WHY AMERICA HAS NOT SIX CARDINALS.

BY SALVATORE CORTESI.

MAY I be allowed to begin with a personal statement—that, during my long connection with American journalism and literary work, I have constantly supported the idea, endorsed even by prominent Protestants, that the Catholic Church has acquired in the United States such a position through its wonderful development in numbers, in the importance of its men and in the prestige and influence which it exercises in almost all the manifestations of the life of the country, especially in the education of the children, that only one Cardinal is an inadequate representation in the Sacred College for such an immense body of Catholics. In less than a century, the land of William Penn has become the fourth Catholic Power in the world from the point of view of numbers, being surpassed only by France, Austria and Italy, while it surpasses even these countries if we take into consideration the loyalty of the faithful, their generosity and their progressiveness. The Catholic Church in the United States, although remaining Roman, has a thoroughly American character of enterprise, of expansion and of grandeur, owing to the vastness of its institutions and the splendor of its buildings, which will soon rival in size and artistic beauty the historical cathedrals of the Old World, so that before long to the latter will only remain the superiority coming from centuries of tradition. Thus the balance will be maintained: the history in Europe; the vigor of modern genius in America.

If there were no figures to substantiate these affirmations they might seem exaggerations, but facts are undeniable. Let us take, for instance, New York, a diocese founded a century ago by the rescript of Pius VII appointing Father Luke Concannon, an Irish Dominican, as the first Bishop, who, however, never

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reached his post, as he died suddenly after his consecration in Rome. Is it possible in our time to imagine New York's having, as its only Catholic Church, St. Peter's on Barclay Street? It was only in 1809 that the corner-stone was laid of St. Patrick's Cathedral on Mott Street, which cost one hundred thousand dollars, a sum then enormous, though it is a mere mite compared with the millions spent on the new cathedral of St. Patrick on Fifth Avenue, and on the over 300 churches which have since been erected in the archdiocese, besides about 200 chapels. New York is to-day the strongest Catholic city in the world, though Paris may have more people baptized into the Church, or there may be numerically more in Vienna; but neither Paris nor Vienna, nor Rome itself, can boast such a truly devout Catholic population at once so prosperous, so intelligent and so active. Besides being the metropolis of the western world, second only to London in population, New York, with its Catholics numbering about a million, almost as many as in the whole of England, and certainly more than in the whole of Australia, constitutes the most powerful centre the Papacy possesses in the Christian world. Statistics demonstrate that more than a million souls are added every year to the United States through immigration, three-fourths of whom are Catholics.

All this is more than sufficient to prove that the claims which for years have been put forward to have another American Cardinal are more than justified; but lately the Vatican authorities have been rather alarmed by the feeling which found expression in an article, published in THE NORTH AMERICAN REVIEW, demanding not one, but six Cardinals. Rome, therefore, prefers to demonstrate that the Catholic Church in the United States has no right to insist on the creation of American Cardinals. The supporters of the American demands set forth, as the strongest arguments in favor of their claims, that, firstly, the United States has now ceased to be a missionary country, having been removed from the jurisdiction of the Congregation of Propaganda, and is on the same footing as France, Austria, Italy and Spain; secondly, that the number of American Catholics may be safely estimated at 24,000,000, including, of course, those in the Philippines and Porto Rico; thirdly, that the contributions of Americans towards the Church are incomparably generous; and, fourthly, that the American prelates who are those pointed out as

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worthy of the honor of the purple, are men of great distinction in churchmanship and otherwise.

The first argument has no special weight, for the reason that the whole of Latin America, which is entirely Catholic and has, therefore, never been a missionary country, had no Cardinal at all until the present Pope gave the Red Hat to Monsignor Cavalcanti, Archbishop of Rio Janeiro, in 1905—that is to say, thirty years after the United States had her first Prince of the Church, Archbishop McCloskey.

The second argument has not more weight in the eyes of the Holy See, since the creation of Cardinals is in no way proportioned to the Catholic population of the different countries. If it were so, as the United States had a Cardinal in 1875 when the Catholics there numbered about 5,000,000, Latin America should have had for several years nearly a dozen Cardinals—while, as we have seen, until 1905 she had none and now has only one. England not long ago, with less than a million faithful, had three Cardinals—Newman, Manning and Howard. If the arguments put forward with regard to America in connection with the number of Catholics had been then applied to the Catholic countries, France would have been entitled to over thirty Cardinals, Italy to twenty-five, Spain to eighteen, and so on. The same might be said about Australia or Canada, both of which had a Cardinal when their Catholic population had not yet reached one million. England, where also Catholicism, notwithstanding the unflinching opposition of Protestantism, has made such progress that in the last century the number of Catholics has risen in England and Wales alone from 60,000 to nearly 2,000,000 has been for six years, since the death of Cardinal Vaughn, without a single representative in the Sacred College, while instead there are three who are Irish or of Irish descent—Cardinal Logue, Archbishop of Armagh; Cardinal Moran, Archbishop of Sydney; and Cardinal Gibbons, Archbishop of Baltimore. This disposes of the second argument.

The contributions of the American Catholics towards their Church at home and the Peter's Pence in Rome, besides direct offerings to the Pope, and until lately to propaganda, are certainly very considerable compared to those coming from other countries; but they will appear less so, if viewed in proportion to the riches of the United States and the less prosperous condition

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of other parts of the world. There have been times, strange as it may now appear, in which France, then really acting as the eldest daughter of the Church, contributed to its clergy and to the Holy See more than all the other Catholic nations put together; but no one thought that this gave her a right to demand a larger number of Cardinals than she has had when her offerings became scarce. The United States have certainly also indirectly contributed to keep up the finances of the Vatican, since it was considered that, when the present Pope was raised to the Chair of St. Peter, the capital on the interest of which the Holy See had chiefly to depend, amounted to about $6,000,000, besides the Peter's Pence, bringing something like $500,000 yearly, and an average of $100,000 coming from the different ecclesiastical congregations as fees for briefs, matrimonial dispensations, annulment of marriages, conferment of titles of nobility, etc. These revenues, put together, made a total income of $800,000 a year, which, as Pius X said, after having introduced all possible economies, "are only sufficient for eight months of the year." For the other four months the Pope depended upon the direct offerings of the faithful, and the time is now long past when for about eight centuries each English family contributed annually one shilling towards the upkeep of the Holy See.

The settlement of the dispute about the land of the Friars in the Philippines, and of the other church questions in Cuba and Porto Rico, almost doubled the capital of the Vatican, so that their finances are now on a relatively solid basis; but such a transaction, which had, after all, a business character, cannot be taken as a reason for increasing the number of American Cardinals.

Finally, the last argument is, from the point of view of the Church dignitaries in Rome, the weakest of all. No one denies the great ability and learning of an ecclesiastic like Archbishop Farley, in the same way that it is impossible not to recognize the commanding influence and the universal respect which Archbishop Ireland enjoys among Catholics and Protestants alike, or the veneration called out by Archbishop Ryan of Philadelphia, the piety and administrative capacity of Archbishop Glennon of St. Louis, or the eloquence, tact and energy of Archbishop O'Connell of Boston; but these qualities, although they are generally among the coefficients required for the Cardinalate, are

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not always sufficient, or even necessary, in order to secure entrance to the Sacred College. Many comparisons might be drawn between American and foreign prelates; but, besides being odious, they would be injudicious, as it would be impossible not to incur the suspicion of partiality. I will, therefore, give one example among the ecclesiastics of the United States. I do not think that there is any one acquainted with church history who does not admire the imposing figure of Monsignor John Hughes, the first Archbishop of New York, who, confessing, confirming, preaching, lecturing, ordaining, raising funds, building schools and colleges, founding charitable institutions, opening new churches, acting as apostle and as diplomatist, was one of the greatest personalities as man, as priest, as patriot. He was sent to Europe on a secret mission by President Lincoln to exercise his influence on the Pope and on the Catholic sovereigns in favor of the Northern States, as almost the whole of the old Continent, with the exception of the then small kingdom of Sardinia, sympathized with the Confederates. His services were extremely valuable, as through his strong individuality, convincing logic and attractive manners he succeeded in gaining over to his cause Pius IX and Louis Napoleon, thus preventing the Holy See and the French Empire first, and then the other European Powers, from recognizing the Confederate States as an independent nation. Still, Archbishop Hughes died without being created a Cardinal, and his successor, Archbishop McCloskey, although by general consent considered a less gifted man, received the Red Hat.

What I have said so far is merely to expound the considerations put forward by Rome in answer to the demands coming from America; but the real truth is that, according to Catholic doctrine, the Pope is the Vicar of Christ on earth; he represents divine authority; he is the intermediary between Heaven and the faithful; he fixes dogma; he is infallible because, interpreting Divinity, he cannot err; consequently, he cannot be subjected to control or receive advice as would befit a democratic chief. There is, therefore, no argument of any kind strong enough to influence the creation of the Cardinals, intrusted in an uncontrollable way to the will of the Pontiff, who is inspired by the Holy Ghost in choosing and creating the new wearers of the purple, as are the Cardinals when gathered in Conclave for the election of the Pope.

Still, this was not the origin of the Cardinals, it is rather in-

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teresting to recall, for they were simple curates or titulars of the churches of Rome, which, being the principal places of worship, were called the "cardinals," a name which passed in time to those who served them. According to other writers, the word "*cardinalis*" was used to designate the fixed permanent clergy of any church, those who were so built into it, and necessary to its being, that it might be said to revolve round them, as a door round its pivot. The use of this metaphor dates from the most remote antiquity, so that, for instance, the five Princes of the Philistines were called "axles" or "hinges" of the people. While in the early days of the Church the Bishops were considered much more important than the Cardinals, the prestige of the latter grew when the right of electing the Pontiff was restricted to the members of the Sacred College alone, chiefly in order to prevent the terrible calamities which used to be the consequence of the great number of electors of the Head of the Church—which had caused thirty-two schisms. Nicolas II was the first Pope elected, in 1059, without any popular intervention, and it was he who published the Magna Charta which established the authority of the Sacred College, and decreed that the Pope should preferably be chosen from among the dignitaries of the Eternal City. With this, and with the choice of the Cardinals chiefly among the clergy of Rome, the Divine Selection of the ancient capital of the Latin world as the centre of Christendom was fulfilled. All the same, no one can affirm that the intentions of Nicolas II were carried out, as, after his death, sixty-nine years passed before a Roman sat in the Chair of St. Peter. Hadrian VI of Utrecht was the last foreign Pope and was so disliked by the Romans, because of his austerity and closeness with regard to money, that when he died, in 1523, the following inscription was found on his physician's door, "You are the savior of your country."

Sixtus V, with his famous Bull "*Postquam*" of 1585, prescribed the number of Cardinals which prevails to this day, ordering that they should never exceed seventy, thus composed: six of episcopal rank, holding the old Roman suburban sees; fifty described as priests, holding a corresponding number of titles or parishes in Rome; and fourteen described as deacons, corresponding to the fourteen "regions" into which the city was divided under Augustus. This again strengthened the opinion

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that Pope and Cardinals, if not actually Romans and Italians, should at least reside in the Eternal City. The influences brought to bear on the Popes practically in all times for the augmentation of the number of Non-Italian Cardinals were many and most powerful, including strong pressure from kings and emperors, who thus obtained the privilege of nominating what was called the "Cardinals of the Crown." This privilege was enjoyed by the Emperor of Austria, the Kings of France, Spain, Poland and Portugal, and by the Republic of Venice. Clement XII granted it also, but only once, to James III of England, commonly called the "Old Pretender."

In 1458 the Sacred College implored Pius II not to augment the number of these "privileged" Cardinals and return to the wise habit of choosing Italian prelates, or at least ecclesiastics living in Rome, but the Pontiff did not accede to their request, saying that his honor did not allow him to neglect foreign countries. This view was ratified by the Council of Trent, which expressed the opinion that the Pope should choose the Cardinals, as far as possible, from the whole Christian world. Up to a century ago, one of the greatest objections to so doing was the difficulty of communication and the length of time required for the journey to Rome. There are, in fact, examples of dignitaries who were a long time without knowing that they had been created Cardinals, owing to the difficulty of transmitting the news to them. Indeed, William Macclesfield, the English Dominican professor at Oxford, was created Cardinal in 1303 by Benedict XI, when he was already dead in Louvain, this fact being still unknown in Rome. Another Englishman, William Petow, Bishop of Salisbury, Confessor of Queen Mary, was created Cardinal by Paul IV in 1557, but many believe that he never knew of his promotion, concealed from him by the Queen, because the pontifical brief announcing his exaltation also ordered that the Papal Legate, Cardinal Pole, should be replaced by Petow, which the Sovereign did not wish. Petow died ten months later without having ever worn the purple.

The difficulty of the distance is now almost entirely overcome; indeed, Pius X, in speaking last June to Archbishop Farley, remarked that, "New York, it may be said, is as near Rome as Naples." In fact, while Cardinal McCloskey, at the death of Pius IX, in coming to Rome—accompanied, it is interesting to

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note, by the then young Father John Farley—arrived when Leo XIII had been already elected; at the death of the latter, Cardinal Gibbons reached Rome even before the first sitting of the Conclave, and the only member of the Sacred College who did not arrive in time was Cardinal Moran, Archbishop of Sydney. The constantly augmenting facilities for coming to Rome, even from the most distant parts of the globe, do not, however, alter the fact that by Divine Will Rome is the seat of the Catholic Church; in Rome evolves and revolves all the complicated machinery of its organization, and that is yet another reason why the greater number of Cardinals have been, are and must be Italian. When the headquarters of Catholicism were for nearly seventy years at Avignon, for the same reason the greater number of Cardinals were French. Should the prediction of Mr. Stead be fulfilled, and the Papacy to reconquer the empire of the world become Anglo-Saxon and transfer itself to America, then the greater number of Cardinals will be from the United States.

The preponderance of the Italian element in the Sacred College has not, however, prevented illustrious Cardinals of other countries from occupying prominent positions at the helm of the Church. To cite only the most recent examples, it will be sufficient to recall that Cardinal Ledochowski, a Pole, was for a lifetime Prefect of the Congregation of Propaganda under Leo XIII, being thus called the "Red Pope," as the head of that Congregation had then under his jurisdiction by far the larger part of the Catholic world; and Cardinal Merry del Val, a Spaniard, is, and very likely will remain throughout the pontificate of Pius X, his Secretary of State, the position which, if not hierarchically, is *de facto* the highest and most important of the Holy See.

This would not be complete without answering certain statements which might lead astray American readers not thoroughly acquainted with Roman affairs. It has been pointed out that an American Archbishop settled the Pious Fund controversy with Mexico at the Hague Tribunal; that an American Bishop went to Rome as a member of the Taft Commission, contributing to the result achieved; that another American Bishop acted as arbitrator in the great anthracite coal strike of 1902; and that another illustrious American prelate tried to prevent the Spanish-American war, without any of them being made Cardinal. Had these

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ecclesiastics been Italians, it is added, they would have received the Red Hat, as happens when an Italian Bishop persuades the Prince of Monaco not to visit King Victor Emmanuel in Rome, or when another displays great heroism during the cholera epidemic. As the American examples will be generally recognized, it will undoubtedly be thought that the Italian examples also refer to prelates who have really been raised to the purple under the alleged circumstances. It will, therefore, be well to have it known that the Prince of Monaco was to come to Rome as a guest of the King last year, to which the Vatican objected, as, since the loss of the Temporal Power, the Popes have prohibited all Catholic sovereigns and rulers from visiting the King of Italy in his capital. The Prince of Monaco, alleging indisposition, abandoned the idea of going to the Eternal City, but no one has ever known that any prelate had any share in his decision, and even if it were so the asserted reward of the Red Hat has never been given, as, since that time, no Consistory has been held and no Cardinal created.

As to the cholera epidemic, the most important one was that in 1884 in Naples, when the deaths amounted to a thousand a day, and King Humbert and the Archbishop of the city met side by side to tend and comfort the dying, giving one of the most sublime examples of civic heroism. That Archbishop was Sanfelice di Acquavella, a Benedictine and a Cardinal; but the Red Hat had already been conferred upon him in the Consistory of March, 1884, several months before the cholera broke out. No other prelate, either then or on similar occasions, has entered the Sacred College for services rendered on the occasion of an epidemic. During the last earthquake disaster in Sicily and Calabria, few men distinguished themselves as did Monsignor d'Arrigo, Archbishop of Messina, or Monsignor Morabito, Bishop of Mileto, in the province of Reggio, but it has not been hinted that there is the least probability of their being rewarded for their labors with the supreme dignity of the Catholic hierarchy. It would be considered here almost the same as though it were said that all the naval and military officers who distinguished themselves there would be promoted admirals and generals. In conclusion, it would be absurd to expect that an institution, the central seat of which is so important as that of the Holy See, should not recruit the larger number of the members of its Senate from among Italians when Rome is its inevitable headquarters,

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and there is no justifiable claim as to the appointment of Cardinals, either in Italy or elsewhere, while certain insistencies are only liable to produce the contrary effect. It is reported that the chances of certain American prelates to receive the much-coveted honor were spoiled by some of their too zealous friends, one of whom, for instance, an official of the Government, and, which aggravated his action, a Catholic, went to Rome and positively declared to the Vatican that, interpreting the desire of the then President of the United States, he would not leave the Eternal City until he had in his hands the Red Hat to carry himself to the American candidate, whose position, character and elevation of mind were worthy of a wiser advocate, and who might well have quoted the proverb, "From my enemies I can deliver myself, but may Providence protect me from my friends."

The Papacy, through traditions and conventions, has pledged herself to the appointment of certain Cardinals in Europe, but has no desire to commit herself to this inconvenient practice in new countries, and that is why a Cardinal in New York was followed by one in Baltimore.

It must finally be considered that, with the exception of a few Cardinals intrusted in Rome with certain important offices like the Secretaryship of State, the Prefecture of Propaganda, the six suburban episcopal sees, the Chancellorship of the Church, etc., most of the other Cardinals, beyond being electors in the case of the vacant pontifical see, are much less important in power, prestige, influence and economic position than several Archbishops and some Bishops of the United States. While the Cardinalate would practically add nothing, except the satisfaction of some ambitious feeling, to some powerful Archbishops, like those of New York and Chicago, what the United States really needs is a Cardinal of theirs residing in Rome to interpret American opinions, methods and aims to the head of the Church. Of course if any of the American Archbishops were ordered to such a post, their admirable sense of duty and unflinching spirit of discipline would lead them to accept it, but no one of them would willingly leave their position in America to become a secondary member of the Sacred College in Rome. There could be no better demonstration of the superiority of an American Archbishop to an ordinary wearer of the purple in the Eternal City.

SALVATORE CORTESI.

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THE STARTLING GROWTH OF STATE POWER.

BY HANNIS TAYLOR.

In the light of the revelations made during the last fifty years by the historical school of jurisprudence, it is now possible for jurists and statesmen to review the entire growth of the State from its advent as a city commonwealth on the shores of the Mediterranean Sea down to its latest and most complex development as embodied in the Federal Republic of the United States. After an examination of the entire panorama of growth intervening between those extremes, it is now practicable to mark at certain well-defined turning-points the ebb and flow of the tide which has either narrowed or enlarged the legal rights of the citizen as to the sovereign during that interval. Only after the mental horizon has been thus widened can we understand how the limits of State power, on the one hand, and the limits of individual legal rights on the other, have contracted or expanded with the movements from collectivism to individualism and from individualism back to collectivism.

When, with the wreck of the Roman Empire, the ancient conception of the state as a city commonwealth was superseded by the modern conception of the state as a nation, we see members of the common Aryan household moving in family groups out of whose union the larger aggregates arose. The new family group, in its Teutonic form, while still recognizing collectivism to some extent in the ownership of property and paternalism to some extent in domestic Government, rested in the main upon a new and higher conception of political liberty out of which representative Government was born. The political systems of all the Teutonic nations contained the germs of the representative principle, and in every one of the settlements made by the Teutonic nations on Roman soil, a serious attempt has at some time been made in

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the direction of representative Government. But with the close of the Middle Ages every effort that had been made in that direction on the Continent of Europe was brought to an end. There pure monarchy prevailed during an epoch that extends from the sixteenth century down to the French Revolution. During that midnight period of monarchy the legal rights of the individual were so narrowed and fettered by the paternal power of the state that in France, with its *banalités* and *seigneurs justiciers,* "the prying eye of the Government followed the butcher to the shambles and the baker to the oven." There "the peasant could not cross the river without paying to some nobleman a toll, nor take the produce which he raised to market until he had bought leave to do so, nor consume what remained of his grain till he had sent it to the lord's mill to be ground, nor full his cloths on his own works, nor sharpen his tools at his grindstone, nor make wine, oil or cider at his own press." Out of the explosion caused by that terrible system of repression came what may be called the orgy of individualism, immortalized by the broad generalizations of the French philosophers as to the inherent and inalienable rights of man. The French constitution of 1793 declared that Government is instituted to secure to man the free use of his natural and inalienable rights of equality, liberty, security, property.

To those who witnessed the political earthquake, whose centre was in France, the state appeared to be a monster as dangerous as that of Frankenstein—a monster whose hands were to be tied by written constitutions defining what the citizen regarded as his inalienable rights. And yet the fact remains that while the French by thus defining the "rights of man" brought written contitutions into being and made them popular, they failed to conceive of an avenging angel with a drawn sword ever ready to strike down all acts of the state performed in violation of them. For the creation of that avenging angel the world is indebted to the United States—it is the outcome of the American invention whereby the judicial power can annul all acts of the state forbidden, expressly or impliedly, by the terms of written constitutions. In the declarations of rights by which American State Constitutions are usually prefaced, such rights are generally defined as they existed in English constitutional law as it stood at the time of the separation from the mother country, with only

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a very thin veneer of the philosophy of the French Revolution as interpreted by such typical men as John Adams and Thomas Jefferson. Such was the process through which the political pre-eminence once accorded the family was finally transferred, in the typical English state in America, to the individual who, as an indestructible and favored unit, the State is bound to protect in life, liberty and property. Upon that basis American individualism was founded; upon that basis it reposed down to the Civil War.

Recently, in a notable paper, one of the profoundest of American jurists and one of the ripest of our historical scholars has confronted us with the proposition that, since that time, a revolution has taken place that has changed, and is changing, the whole face of American society. Reference is made to an address, entitled "The Narrowing Circle of Individual Rights," delivered last December before the West Virginia Bar Association by Chief-Justice Simeon E. Baldwin, of Connecticut. In explaining the causes of the change in question he says:

"The first of these was the Civil War; the second was the Philosophy of Evolution. The Civil War had shown what men massed together in compact organizations could do; and how little, in comparison, could be effected by individual exertion. It had shown how, in every State a political majority could be scattered, suppressed, annihilated. It had shown that munitions and supplies such as armies demanded could only be furnished by great combinations of capital and labor. It had shown that these combinations could be easily perverted to mischief—that in the train of a Pacific railroad, and a *Crédit Mobilier*, corruption came, and came even to the steps of the Capitol. It had shown that in the opinion of the great leaders in civil government in the United States and in the Confederate States alike, individual liberty must be often and harshly curtailed for the public good. It had shown that there was a certain grandeur in a vast territory, united under a single government, that appealed to a just civic pride, out of which came a new spirit of nationality.

"As the Civil War was drawing near, Darwin and Wallace brought before the world the philosophy of evolution. It put man in a new light. It put the Creator of man in a new light. The process of evolution, we were told, had been a slow and gradual one. It had been a progress from animalism to intellectuality—an ascent from what was low to what was high. The American people, in character always a religious people, saw that this theory must lead either to an unyielding materialism, or to a new aspect of that power which we call divine. . . . The fear of God was the motive to which the churches had especially appealed. His wrath was the attribute on which they had particularly

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dwelt. The love of God and His love for man, is that on which they now have long been insisting most. Some such change of view-point, nearly corresponding in point of time, is to be remarked on the part of man, not only here, but throughout the world, in relation to human government. Down to and beyond the era of the American and French Revolution he had everywhere distrusted the state. He feared and sought to reduce its power. He did reduce it, wherever the community was strong enough to make an effectual resistance. He had succeeded in his efforts, by the middle of the nineteenth century, in the greater part of the civilized world. He tied the hands of government by written constitutions, when he could, and was careful to declare in these constitutions what he deemed to be his own fundamental inviolable rights. . . . Herbert Spencer had been widely read in the United States. He had lent the weight of his authority to support those theories of individualism which our fathers had adopted in sympathy with the statesmen of France. It was the fundamental principle of his philosophy of society, from his first statement of it in 1842, that the action of every government upon its citizens should be confined, and strictly, to the maintenance of equitable relations among them. Strong governments, he declared, make weak men. Down to the era of the Civil War and of the recognition of the evolutionary hypothesis, this had been accepted as axiomatic by our leading thinkers. Then arose this new school of political opinion. The lessons that armies can teach; the greater freedom of incorporation; the trend of modern European thought; the simplicity as well as boldness of the new philosophy; all led away from that of Bentham and Spencer and Mill. . . . It is no longer the preservation of a strong and independent individualism that is the object of solicitude. It is the creation of a state of dependence of the individual for his safety on the state. . . . Here, as fully as in Europe, in the view of the optimist, at least, orderly co-operation is the rule of social life which modern legislation is seeking to enforce. It has not waited for a change in our constitutions. It is content to reinterpret them."

After thus stating his thesis, Judge Baldwin undertakes to maintain it by reminding us that the manufacturer, who finds his field of activity contracting, cannot distill or brew in one State and cannot make a cigarette in another; that the employer, who could once discharge those who did not vote for his candidate is now punished by the State if he dares to do so; that the public official who was once free to take an active part in politics is subject to removal for such activity; that a man's house, once subject to seizure, after just compensation, for the strict purposes of Government, may now be appropriated for a bandstand, a memorial site, a hospital, a college, a free library; that a farmer who once could plant and till his land as he would is now liable to have it invaded by an official who may uproot the

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trees in his orchard and leave him without remedy if the State deems such action necessary for the public welfare; that the owner of a wood lot who was formerly free to cut it when he pleased and as he pleased may now be ordered by the Legislature to refrain from cutting the whole or part of the natural growth for a period of years, whenever such a course is deemed to be for the greatest good of the greatest number; that the owner of land from which comes oil or natural gas or artesian water may be compelled, on the one hand, to guard against waste and on the other to refrain from increasing the natural flow to the prejudice of his neighbors; that the riparian proprietor on streams not navigable may be compelled in many States to submit to the flooding of his lands by others to create water power for them to put to milling or manufacturing purposes, while his fishing rights may be curtailed or perhaps denied for years, in order to replenish the stream with more fish for others to catch and eat; that a grazier or butcher who could formerly use his meat products as he saw fit, may now be punished as a criminal should he use his tallow to make a cheap substitute for butter; that the man who could once educate his children as he pleased, or not at all, may now be compelled by the State to educate them in a certain way; in obedience to the State's command he sends them to a public school where it may refuse to receive them unless they are submitted to vaccination, although he may regard it as unnecessary and dangerous; that the man who could once contemplate marriage, with his free choice untrammelled by considerations of personal health, may now be forbidden by the State, under heavy penalties, from marrying an epileptic or one of feeble mind; that the man who could once dispose of his estate by will, with few limitations, provided he was not grossly unfair to his next of kin, must now submit when the State demands a share for itself, and one that is to be increased progressively with the magnitude of the inheritance. Judge Baldwin then adds:

"The artificial person has lost more, even, than the natural person. Its field of action is continually being circumscribed; its manner of action continually subjected to new limitations. . . . The individual laborer has also been often treated by our legislators like a ward incapable of protecting his own interests. The number of hours for which he can agree to work in a day have been cut down, and his liberty of contract in many other directions circumscribed. On the other hand, the power of the State has often been exerted to depress that of organized

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labor. It has regulated and, under some circumstances, forbidden strikes. It has forbidden boycotts. It has forbidden (though it knew it not) combinations of labor in different States in restraint of commerce between those States. But this is no time to multiply references to a kind of legislation with which every man before me is familiar, and in shaping which many of whom have had a part. *It is the age of Collectivism. The functions of the State multiply. Its circle of activities expands, and the circle of activities around each private individual is correspondingly reduced.*"

From the foregoing catalogue, imposing as it is, Judge Baldwin has omitted items that prove, as no others can, the fact of the mighty change which he says has taken place. Washington and Jefferson regarded the right to carry on a lottery as one of the "rights of man." Only the death of the latter prevented the sale of Monticello by that process, while the building of the cathedral at Baltimore was made possible by a lottery scheme in which the archbishop won the grand prize donated by him to the undertaking. When in 1836, in the midst of the slavery agitation, President Jackson recommended the passage of an Act prohibiting the circulation of incendiary papers through the mails a storm arose in the Senate, where the proposal was trampled underfoot. Clay said that Congress could "not pass any law interfering with the subject in any shape or form whatever," while Webster "contended that the bill conflicted with that provision in the Constitution which prohibited Congress from passing any law to abridge the freedom of speech or of the press. What was the liberty of the press? he asked. It was the liberty of printing as well as the liberty of publishing in all the ordinary modes of publication. And was not the circulation of papers through the mails an ordinary mode of publication? He was afraid that they were in some danger of taking a step in that matter that they might hereafter have cause to regret, by its being contended that whatever in this bill applies to publications touching slavery, applies to other publications that the States might think proper to prohibit; and Congress might, under this example, be called upon to pass laws to suppress the circulation of political, religious or any other description of publications which produced excitement in the States. It would be admitted, that if a newspaper came directed to him, he had a property in it; and how could any man, then, take that property and burn it without due form of law? and he did not know how this newspaper could

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be pronounced an unlawful publication and, having no property in it, without a legal trial." Such views as to the lack of state power in Congress to regulate and control the intellectual contents of the mails and to purge them of any matter put by it on its *index expurgatorius* had entirely vanished prior to 1891 when the Supreme Court of the United States was called upon to uphold the constitutionality of an Act of Congress vesting in administrative officers, without trial by jury, the right to exclude from the mails any newspaper containing a lottery advertisement. The court in its opinion said:

> "The circulation of newspapers is not prohibited, but the government declines itself to become an agent in the circulation of printed matter *which it regards as injurious to the people.*"

In other words, public opinion had changed. The ideas of Washington, Jefferson and the archbishop of Baltimore as to lotteries were repudiated; the ideas of Clay and Webster as to the right of Congress to regulate the intellectual contents of the mails were repudiated. In 1905 Mr. Dicey, the Vinerian professor of English law at Oxford, published a book, entitled "Law and Opinion in England," in which he maintains that: "In England, however, the beliefs or sentiments which, during the nineteenth century, have governed the development of the law have in strictness been public opinion." Later on he adds: "Does not the advance of democracy afford the clue to the development of English law since 1800?" Doubly true is that statement when applied to the development of law in the United States since the end of the Civil War. As Judge Baldwin eloquently contends, there has been since that time a transformation. We have passed from the age of individualism to "the age of collectivism." "The functions of the State multiply. Its circle of activities expands, and the circle of activities around each private individual is correspondingly reduced." The directing power is public opinion—its agents are Congress, the State Legislatures and the courts. It cannot be denied that the action of the Supreme Court in the Freedom-of-the-Press Cases, by which lotteries were crushed out in this country, was sustained by an overwhelming public opinion. Nearly everybody believes that the end attained was an excellent one, and no doubt it was. But let us not deceive ourselves as to the cost of the victory. It is now settled that Congress, so far

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as the contents of the mails is concerned, has as much constitutional power to make an *index expurgatorius* as was ever vested in the Roman Curia or in the Star Chamber. In the language of the Supreme Court, Congress can exclude by the hand of an administrative officer, and without trial of any kind, any newspaper from the mails that contains any "matter which it regards as injurious to the people." In the mighty conflicts yet to come that Censorial power over the press thus vested in Congress by judge-made law must be taken into account.

In the April number of this REVIEW a very strong and impressive appeal was made by the president of the New York Life Insurance Company for Congressional supervision of interstate insurance. The writer bases his hope of success mainly on the following:

> "In 1902, the Supreme Court of the United States, in its interpretation of the powers of Congress under the commerce clause of the Constitution, went farther than ever it had gone before. The case before the Court was that of Champion *vs.* Ames, and it is known as the 'Lottery Case.' By this decision the validity of an act of Congress for the suppression of lottery traffic through international and interstate commerce and the postal service was sustained. As I read the entire case, the previous declarations of the Court that insurance is not commerce are therein substantially overruled; and, under the doctrine laid down, it seems reasonably clear that, if Congress should now pass an act providing for Federal supervision and regulation of interstate insurance, the Supreme Court would be bound to sustain it."

When we look the facts in the face, when we measure by standards that do not deceive the startling growth of State power, local and national, that has taken place in the last fifty years, and then couple with it the manifest tendency to carry it further still, we cannot deceive ourselves as to the actual conditions that confront the nation as a whole. We have returned to a time when "the prying eye of the Government follows the butcher to the shambles and the baker to the oven"—a time of collectivism in which the dependent individual looks to the State for protection through the methods of orderly co-operation which modern legislation is seeking to enforce. During the period that divides Jefferson from Lincoln a transformation has taken place in our internal economic conditions, whose results have reversed the fundamental proposition upon which Jefferson's political theories were founded. Just as he and his followers demanded that gov-

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ernmental power should be limited to the greatest possible extent, and that the circle of individual rights surrounding the citizen should be widened to the greatest possible extent, a majority of the American people, *including those who still profess to follow Jefferson,* are now demanding that governmental power, State and Federal, shall be so widened, even at the sacrifice of individual rights, as to protect them against the incorporated battalions the new collectivism is hurling against them. Will proof of that assertion be demanded by any one familiar with the recent records of Congress, of the State Legislatures and of the courts wherein the people are striving, through the exercise of extraordinary state power, to restore the equilibrium of American society?

The ultimate arbitrating power in this country is the judicial which throws all statutory legislation into its crucible, where it is tested and refined. Only the finished product is the law. Public opinion working through the judicial power determines its final form. It is, therefore, of supreme importance that our judiciary, which has an honorable past, should be maintained at a high standard as to character, learning and worldly experience. Chief-Justice Baldwin, thoroughly equipped as he is on the historical and scientific side of law as well as on the practical, is a fine example of what an American judge should be. With such arbitrators standing between the individual and the State we have nothing to fear. The solution of mighty and delicate problems still await them. In extending national supervision over corporations engaged in interstate traffic such discrimination must be made as will preserve legitimate corporate enterprise from destruction. Public opinion now clearly recognizes the fact that the advance of the country cannot go on without the further development of the railroad system which will require the fresh investment of hundreds of millions in that direction. Unless State regulation guarantees security and a fair return on such investments, capitalists will not take the risk. On the other hand, there is a determined purpose, upon the part of the nation, to subject the earnings of corporations, in some instances so vast, to their just proportion of Federal taxation. The importance of this measure depends not so much upon the rate at the outset as upon the fact that a new subject-matter is to be subjected to a new kind of Federal control. The state

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power that can impose such a tax can open every corporation record, so far as it should be opened, to inspection to the end that the exact amount which any corporation earns may be ascertained by law. The comparatively small opposition manifested to the measure recently passed by Congress is a sure indication that the corporate wealth of the country is willing to bear its just quota of the public burdens. The almost unanimous declaration by Congress that a constitutional amendment should put forever at rest its power to impose an income tax may be accepted as the beginning of the end, so far as the prolonged conflict on that account is concerned. As a part of the same scheme will inevitably follow a progressive inheritance tax, as a partial solution, at least, of the menacing problem that deepens as the concentration of vast wealth in a comparatively few hands increases. So long as we are menaced by the irritating contrast, in the midst of republican institutions, of great poverty and great riches side by side, the socialist and the anarchist will point eternally to the fact that there is an ultimate power that can eliminate it all by the destruction of the institutions that make such inequalities possible. The most effective answer the constitutionalist can make to such suggestions is the proposal by the State itself to accomplish the desired end through the legitimate exercise of its own machinery. A plutocracy that will be blind enough to endanger its own interests by resisting such a policy upon the part of the State must place itself ultimately in the same position as that assumed by the *ancien régime* upon the eve of the French Revolution.

HANNIS TAYLOR.

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THE CONFLICTING DUTIES OF THE INTERSTATE COMMERCE COMMISSION.

BY H. T. NEWCOMB.

JAMES MADISON, writing in the forty-seventh number of "The Federalist," in defence of the proposed Federal Constitution against the objection, made by its "more respectable adversaries,"* that it failed sufficiently to separate the legislative, executive and judicial powers of Government, said:

"The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed or elective, may justly be pronounced the very definition of tyranny."

Continuing the discussion in the succeeding number, which, however, was published in the same issue of the "New York Packet," Madison, in the final paragraph, gave utterance to the following warning:

"The conclusion which I am warranted in drawing from these observations is, that a mere demarcation on parchment of the constitutional limits of the several departments, is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of Government in the same hands."

In other words, it appeared to the learned, patriotic and practical commentator that the wisest and most skilfully drawn constitutional provision might be subverted in substance should the people relax their vigilance or waver in their fidelity to the principle of separation of powers. There is abundant evidence that the warning was not unnecessary.

The Interstate Commerce law, adopted on February 4th, 1887; amended on March 2nd, 1889, February 10th, 1891, February 11th, 1893, February 8th, 1895, February 11th, 1903, and February 19th, 1903, and revised on June 29th, 1906, has frequent-

* "The Federalist," No. XLVII. Originally published in the "New York Packet," Friday, February 1st, 1788.

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ly been used as an illustration of the confusion of different kinds of power in the same hands. Indeed, if statements that have seemingly emanated from authoritative sources are to be regarded as trustworthy, the great constitutionalist and lawyer who now occupies the White House is so far convinced of the validity of this criticism that he has set before himself the task of obtaining a distribution of the inharmonious and conflicting powers. Evidently President Taft intends that there shall be no diminution of the safeguards against excessive and unjustly discriminatory charges for interstate railway services, but he proposes to place in separate hands the different means provided for the protection of the public against those undoubted evils, to the end that each agency may be able to use its own sort of power in the most impartial, satisfactory and effective manner.

The Interstate Commerce Commission consists of seven members, appointed by the President, subject to confirmation by the Senate, for terms of seven years' duration and expiring at intervals of one year, who are paid for their services at the rate of ten thousand dollars per annum. Its principal office is in Washington, D. C., but it pursues its investigations wherever it will facilitate the prompt and efficacious performance of its functions. It expends upwards of $700,000 yearly, and its salary-list and other expenses are rapidly increasing.

The principal powers and duties conferred upon the Commission by the different sections of the law in its present form are enumerated below:*

"Section 1. A. (1). To order the construction, maintenance and operation upon reasonable terms of switch connections between any railway and any lateral branch line of railroad or private sidetrack where safe, reasonably practicable, and there is sufficient business.

"Section 6. A. (2). To modify the requirements of the law as to length of notice of changes in rates or as to publishing, posting and filing rate schedules or tariffs.

B. (3). To execute and enforce the law.

C. (4). To apply to district attorneys of the United States to institute and prosecute proceedings for the enforcement of the law.

* For convenience in referring to them hereinafter, each separate power has been given a serial number which appears in parenthesis.

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D. (5). To issue subpœnas and subpœnas *duces tecum*.

E. (6). To order testimony taken by deposition for use before itself.

F. (7). To appoint persons to take depositions in foreign countries for use before itself.

"Section 13. A. (8). To receive complaints and to investigate matters made the subject of complaint.

B. (9). To institute inquiries 'on its own motion' and 'to the same effect as though complaint had been made.'

"Section 14. A. (10). To make written reports of its investigations.

B. (11). To include in its reports of investigations its 'decision, order or requirement in the premises,' and, if it awards damages, its 'findings of fact.'

"Section 15. A. (12). 'To determine and prescribe,' after 'full hearing,' 'what will be the just and reasonable rate or rates, charge or charges, to be thereafter observed as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed and shall conform to the regulation or practice so prescribed.'

B. (13). To prescribe, within certain limits, when its orders shall take effect and how long they shall remain in force.

C. (14). To prescribe divisions of joint rates.

D. (15). To establish through routes and fix joint maximum rates and divisions of rates on such routes.

E. (16). To prescribe maximum allowances for services connected with transportation performed by owners of the goods transported.

"Sections 16 and 16*a*. A. (17). To make orders directing the payment of money damages.

B. (18). To suspend, reverse or modify its own orders.

C. (19). To employ special counsel 'in any proceeding' under the law.

D. (20). To apply to the Federal courts to compel obedience to its orders.

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E. (21). To defend suits brought 'to enjoin, set aside, annul or suspend' any of its orders.

"Section 17. A. (22). To make and alter its own rules of practice.

"Section 19. A. (23). To prosecute anywhere, by one or any number of its members, 'any inquiry necessary to its duties.'

"Section 20. A. (24). To require annual reports from carriers subject to the law.

B. (25). To prescribe the form of such reports, and to require specific answers in them to 'all questions' on which it 'may need information.'

C. (26). To fix a date after which all carriers subject to the law must have 'as near as may be' a uniform system of accounts and the manner in which such accounts shall be kept.

D. (27). To require special monthly reports of earnings and expenses.

E. (28). To prescribe the forms of 'all accounts, records and memoranda' of traffic movement and receipts and expenditures of money permitted to be kept by the carriers.

F. (29). To have constant access to and to inspect the accounts of carriers.

"Section 21. A. (30). To report annually to Congress and to make 'recommendations as to additional legislation.'"

By certain supplementary Acts the Commission is also given extensive powers for the enforcement of the safety-appliance and hours-of-service laws, collects data covering accidents and has a degree of supervision over some telegraph companies.

Here is certainly a curious hodgepodge of conflicting, incongruous and irreconcilable functions. The bare enumeration should suffice to establish the truth that the Commission has been directed to perform many duties which it cannot execute with proper zeal without, at the same time by an inevitable reaction, depriving itself of that just equipoise which ought to characterize the exercise of legislative functions and, *a fortiori*, of that cold impartiality that constitutes the only judicial temper which is proper and safe. The impropriety of this union in the same agency of inconsistent powers is vouched for by no less an authority than Hon. Charles A. Prouty, since the year 1896 one of the most active and prominent members of the Commission. Addressing the American Bar Association at its annual

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convention, held during August, 1907, fourteen months after the passage of the Hepburn law, Mr. Prouty said:

"I have said that the Act to regulate Commerce at once instructs the Commission to enforce its provisions, and constitutes that body a tribunal to pass upon complaints brought against railways. It has been in the past one of the most serious reproaches against that Act that the Commission was made by its terms at once a prosecuting officer and judge . . . the objection to combining in the same person the duties of prosecutor and a trier is a wise one, which should seldom be contravened. . . . The jurisdiction of the Commission has been enormously increased. . . . I feel, therefore, that *the time has come when the duties of this body should be separated. If it is to continue to hear and determine cases, it should be relieved of its other work.* . . .

"The conclusion of the whole matter is this: If the Interstate Commerce Commission is vested with a jurisdiction so tremendous in extent, and of such finality, every effort should be made to provide a body adequate to the trust. That Commission under the present law is charged with two sets of duties requiring diverse qualifications for their discharge. It stands, first, as representative of the Government to see that these highways are in fact public. It is commanded to enforce the provisions of the Act to regulate commerce. It must see that rates are reasonable and just; that the practices and regulations of railways are not oppressive; that the penalties provided by the Act are enforced. In the near future the powers must be extended to the operation of the railroad as well. *These duties are largely executive. They can best be discharged by a single head, responsible to the executive and answerable to the spur of popular criticism.*

"Second, this Commission is in essence a judicial tribunal which hears and decides complaints. *The qualifications of such a body are the exact opposite of the other.* . . .

"I very much doubt whether the same body can properly discharge both these functions. In the end it will either become remiss in its executive duties or will, in the zeal of those, become unfit for the dispassionate performance of its judicial functions. *Whatever may have been true in the past, the time has come when the Commission should be relieved of all its duties, except the hearing and deciding of complaints.*"*

Portions of the foregoing, expressing important conclusions, have been italicized by the writer of the present paper. It is difficult to see any escape from acquiescence in these conclusions. The public is plainly entitled to an impartial forum in which the

* Commissioner Prouty's paper, which is entitled "A Fundamental Defect in the Act to Regulate Commerce," is printed in full in the Transactions of the Thirtieth (1907) Annual Meeting of the American Bar Association and has been privately printed in pamphlet form by its author.

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relative rights of the buyers and sellers of interstate railway services may be determined, and it is only too plain that perfect impartiality cannot long survive in the unfavorable atmosphere of prosecution. When a member of the Commission who has had such long experience in its work comes forward publicly to declare in unequivocal terms that it cannot continue to exercise its executive duties and remain "a body adequate to the trust" of its "tremendous jurisdiction" to hear complaints and redress transportation wrongs, it is clear that the necessity for a change is imperative.

The characteristic functions of the Commission are those of hearing complaints and redressing wrongs by means of orders requiring changes in rates or in transportation practices. It was created primarily for these purposes and the form of its organization was adapted, in the opinion of those who framed the statute, especially for the performance of these functions. Subject to the single qualification that, with duties so strongly partaking of the judicial nature, there ought to go the constitutional judicial tenure of office—that is to say, that appointments to the Commission ought to continue "during good behavior"—there could be little objection to the statement that, deprived of inconsistent duties, the performance of which must necessarily warp its judgment and create a bias toward one of the parties to each proceeding, the Commission is well constituted to arbitrate between the carriers' patrons and the carriers. Therefore, whatever duties are to be subtracted from those now performed by the Commission, those of hearing and deciding complaints ought to remain. Commissioner Prouty thinks that no other duties ought to be left to the Commission, and it may be admitted that he is unmistakably right in this conclusion. The powers and duties which would probably be retained by the Commission, if Commissioner Prouty's recommendation should be followed, are those numbered 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 22. All these powers and duties relate to the receipt and adjudication of complaints, to the procurement of testimony necessary therefor or to the redress of wrongs complained against and shown by testimony to exist. For the proper performance of such duties an unbiased and impartial tribunal is necessary, and with the curtailment of its duties the Commission can be expected to become such a tribunal.

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There is, however, another reason for the adoption of Commissioner Prouty's suggestion which ought to have controlling influence, even though there were no other serious objections to the Commission continuing to perform its supplementary duties as a prosecuting agency. The number of complaints formally presented for adjudication has enormously increased since the enactment of the Hepburn law. Promptness in handling these cases is a primary requisite of sound and helpful regulation, and care and thoroughness in consideration are among the chief essentials. How difficult it must be invariably to comply with these requirements, even were the Commission wholly free from its multitudinous and exacting executive duties, may be gathered from the following quotation from the latest (1908) annual report of that body:

"The number of formal cases and investigations instituted during the year was 554, relating directly to the rates and practices of 3,080 defendants. This shows an increase of thirty-three and one-half per cent. over the previous year, as the number of such complaints filed in 1907 was 415, relating directly to the rates and practices of 2,236 defendants. . . .

"Five hundred and seventy-three hearings and investigations of alleged violations of the Act to regulate commerce, including one investigation under joint resolution of the Congress, have been had at general sessions of the Commission at its office in Washington and at special sessions held at various places throughout the country at which more than 67,000 pages of testimony were taken or something over 134,000 folios."*

From the organization of the Commission to the date of the passage of the Hepburn law—that is, from early in 1887 to June 29th, 1906, a period of more than nineteen years,—the number of formal complaints received was less than 874, that number representing all proceedings begun, including some that were instituted by the Commission "on its own motion," without any formal complaint. From June 30th, 1906, to November 24th, 1908, formal proceedings were begun in 1,031 cases, nearly all by the receipt of complaints. Thus during twenty-nine months, under the new law the Commission received substantially 157, or about eighteen per cent., more complaints than it did in over nineteen years under the old law, the average number received under the new law being over thirty-five cases per

* Twenty-second (1908) Annual Report of the Interstate Commerce Commission, pp. 6, 7.

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month as compared with less than four cases per month under the old law.

Now as to the rapidity with which it has proved practicable to handle these cases. On June 28th, 1909, the Interstate Commerce Commission decided case No. 1,597 which appears to have been filed on June 12th, 1908, substantially one year before. The opinion is the one-thousandth and sixtieth promulgated and the last issued during the fiscal year that ended with June 30th, 1909. The first opinion rendered during that year was No. 699, so that it appears that in twelve months the Commission issued 362 opinions. Some of these opinions covered more than one case, a fact that must be taken into consideration before comparing the total just given with the number of complaints received. There were two instances of the consolidation of seven cases; one opinion covered six complaints, three covered five, one covered four, six covered three and twenty covered two; the others covered one each. Allowing for these, the total number of complaints decided during the fiscal year was 426, which may no doubt be fairly compared with 554 complaints received during the calendar year 1908. Among the cases decided during May and June of this year, months of quite unprecedented activity in the promulgation of decisions, there were forty-five at least (the examination may not have been complete) which had been pending over nine months, thirty-eight over ten months, thirty-four over eleven months, thirty-two over twelve months, nineteen over fifteen months, thirteen over eighteen months, twelve over twenty-one months and six over two years. The average time which elapsed between the filing of these complaints and their decision was one year, three months and twelve days.

The record just summarized contrasts, almost inexplicably, in its evidence of expedition in disposing of cases with the much slower progress of the years immediately preceding. For example, the annual report for 1907 states that:

"Between August 28th, 1906, and November 4th, 1907, the Commission rendered decisions, after full hearing upon complaint and answer, in 107 contested cases."*

As the annual reports show that the number of formal com-

* Twenty-first Annual Report of the Interstate Commerce Commission, p. 7. The average for the period was 7.5 cases per month; cases filed in the same period averaged thirty-one per month.

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plaints filed between the dates named in the foregoing was 441, it is clear that the relatively small number decided (less than one-fourth of the number received) cannot be explained as due to any lack of cases to be decided. There was no change in the personnel of the Commission during the periods under comparison, and of course it is impossible to suggest that there has at any time been anything except the most diligent devotion to duty on the part of every member of that body. The only possible conclusion, therefore, from the contrast between 107 cases decided in one period of fourteen months and 426 cases decided in a later period of twelve months is that the Commission has altered its view as to the quantity of effort necessary or desirable in the consideration of separate cases. Whether the reduced consideration which such an altered attitude would imply is sufficient to safeguard the reciprocal interests of railway patrons and railway investors is a question of great importance.

Whatever conclusion may be warranted as to the adequacy of the inquiry made in each particular case under current conditions, there can be no doubt that the capacity of a board of seven of the most intellectually active and physically able men who could be obtained might well be severely taxed if it performed no duties beyond hearing and deciding interstate commerce cases at the average rate of three for every two days, including Sundays and holidays and with no allowance for vacations from one year's end to another. And that is the rate at which these cases were placed upon the docket of the Commission during 1908.

The duties now superimposed upon those properly belonging to the Commission are varied, extensive and important. Some idea of their nature has already been afforded by an analysis of the law. It is worth while to ascertain from the Commission itself what they amount to in actual practice. The annual report for 1908 gives a hurried synopsis of one very useful activity as follows:

"During the present year 4,640 informal complaints were filed with the Commission in which correspondence has been had with the carriers, resulting in the adjustment of 3,515 of these complaints; 37 were transferred to the formal complaint docket, leaving 1,288 unadjusted in which further correspondence is necessary. During the previous year 4,382 complaints of this character were filed. . . . Many of these complaints are important and allege violations of every phase of the law, such as overcharges, excessive rates, discrimination, reconsignment rules, de-

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murrage rules, validation of tickets, train service, car shortage, undercharge, Pullman rates, embargo, etc."*

The extent of the correspondence relating to safety-appliance matters, the hours-of-service law, cases pending in the courts, contested cases and general topics indicates another phase of the non-judicial labor of which the Commission might well be relieved. The report for 1908 states that 102,759 such letters were prepared and mailed by the Commission's "operating division" during that year as against 66,070 the year before, while the number of such letters received was 104,034, an increase from 66,933 in the former year.

The Commission has a "Division of Claims" charged with the duty of investigating claims for reparation on account of alleged overcharges for railway services. In the twelve months covered by the report, this division approved "informal" claims of this sort in 1,012 instances, representing refunds by carriers aggregating $154,703, and rejected or refused to approve 864 such claims.†

The tariff files maintained by the Commission since 1887 are extensive and require a considerable force of experts and clerks in order that they may be readily available. The Commission is also compelled to prescribe rules to govern the form in which the tariffs or rate schedules are to be prepared. The latest annual report says:

"All schedules offered for filing are scrutinized as to certain features, and gradually more and more are being subjected to careful examination and criticism by the Commission. . . .

"In the twelve months ended November 30th, 1908, there were filed with the Commission 228,490 tariff publications all containing changes in rates and rules governing transportation. A very extensive correspondence has been necessary in connection with this tariff work, which, it is hoped, will in the future become less voluminous."‡

The statistical work in charge of the Commission requires the services of a large force of employees and must make heavy demands upon the energies of some of the commissioners. The scope of this work is only suggested by the following extract from the report:

* Twenty-second (1908) Annual Report of the Interstate Commerce Commission, p. 7.

† *Ibid.*, p. 10.

‡ *Ibid.*, p. 14.

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"The financial accounts for all agencies of transportation have been brought to a point at which general questions of public policy, as well as technical questions of accounting, claim consideration. . . .

"In the matter of annual reports, also, many changes have been made during the past year. Such reports are now required from express companies, from electric railways and from sleeping-car companies. The forms for reports of steam railways have been arranged so as to require a less extended report from the small railways than from the large railways. A special form of report has been devised for switching and terminal companies, as well as for lesser companies, which maintain financial accounts only. A special form of report has been provided also for the use of carriers engaged in operations other than rail transportation."*

Possibly the duties in addition to hearing and determining complaints that have so far been discussed in this article have little, if any, tendency to create that attitude toward the carriers which, as so aptly and forcibly stated by Commissioner Prouty, tends to impair the judicial quality and temper of the Commission. If so, the only, though sufficient, reasons for transferring these duties are that, as Mr. Prouty says, they can be better performed under a single executive head, and that their transfer will allow the Commission to devote all of its time and abilities to the determination of the many grave and far-reaching questions presented by the complaints it receives.

There are other duties, however, which cannot be described as harmless in their tendencies to react upon the feeling of the Commission toward the corporate parties who must defend their rates and practices when they are attacked by complaints. In enforcing by prosecutions the hours-of-service and safety-appliance laws, in participating in the defence of suits brought in the Federal Circuit Courts to annul or suspend its orders, in inspiring and assisting the prosecution of persons and corporations accused of violating the law, the Commission is no longer an impartial body, it has become an active agent in a process openly adverse to some of the very parties over whom it may the next day sit as judge. If this situation had not too long existed, it might well be characterized as intolerable.

Five pages of the 1908 report are devoted to a synopsis of suits brought to annul or suspend the Commission's orders, and it appears that from July 1st, 1908, to December 24th, 1908, the

* Twenty-second Annual Report of the Interstate Commerce Commission, p. 82.

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date of the report, sixteen suits of that character were begun in the Federal courts. The questions presented by these cases include: (*a*) the constitutionality of the Hepburn law, (*b*) the limits upon Congressional authority to delegate power to the executive branch of the Federal Government and (*c*) the extent of the power of judicial review of the Commission's orders and proceedings under the new law. The position of the Commission in assuming a part of the burden of defending these suits is much like that of a Federal circuit judge who should appear in the Supreme Court (without compensation) as the advocate of the party to whose advantage he had decided the same case in his own court. Nevertheless, this strange duty is imposed by the present law upon the Commission.

As to criminal prosecutions initiated by the Commission the report will be briefly quoted:

"The enforcement of the Act by means of criminal prosecution still continues to be necessary. This work has gone forward satisfactorily during the past year. Since December 1st, 1907, forty-six indictments for giving or receiving rebates were returned in the various judicial districts of the country. In the same period forty-one prosecutions were concluded—twenty-four by convictions or pleas of guilty in the trial courts, seven by affirmances of convictions upon appeal, three by acquittal, one by quashing of indictment by the Court of Appeals after conviction in the trial court, and six by entry of *nolle prosequi* before trial.

"The Division of Prosecutions has also investigated many practices of carriers during the year which have been held not to be of sufficient gravity for prosecutions, but which, being of doubtful propriety, have been required to be corrected or discontinued."*

Concerning its energetic pursuit of possible offenders against the safety-appliance laws, the Commission has much to say.

"Prosecutions under the safety-appliance Act are being vigorously pursued, and each decision tends the more strongly to fortify the efforts of the Commission in its enforcement."†

Some measure of the activity for which the Commission commends itself is found in the fact, recited on the same page, that since the enactment of the law it has sent to the several district attorneys no less than 597 of these cases, representing 2,395 separate violations or alleged violations of the laws, and that on

* Twenty-second Annual Report of the Interstate Commerce Commission, p. 25.

† *Ibid.*, p. 44.

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account of these offences penalties amounting to more than $100,000 have been recovered. At the date of the report criminal prosecutions in connection with 675 alleged violations were pending. For the detection of offences under this law the Commission employs a large force of "inspectors," although it seems to have held that to ascertain whether the hours-of-service law was properly observed "through secret investigations of Government inspectors" would not have been "in consonance with American ideas and institutions."* Otherwise the relation of the Commission to the enforcement of the latter statute is the same as toward the safety-appliance law.

That Commissioner Prouty did not overstate the danger when he expressed his fear that "in the zeal" of its executive duties the Commission might "become unfit for the dispassionate performance of its judicial functions" must be plain when we find that body grouping all the possible respondents to the complaints it may receive and applying to them one sweeping and general condemnation. Thus, in discussing controversies that have arisen over the application of the safety-appliance law, the report already quoted says:

> "The railroads, however, are inclined to lay much stress upon the sanctity of property interests. They contend that the safety-appliance Act is penal in its nature, and that it should for that reason be strictly construed. They seek to justify their violations of the law by pleading ignorance as to the condition of their equipment or want of intention on their part to disobey the statute."†

It will be noted that the foregoing allegation is confined to no particular railway or group of railways; it characterizes all of them together as lawbreakers and as engaged in an attempt to prevent the successful and complete enforcement of a statute which the Commission very clearly would like to have most broadly construed.

Those who agree that the non-judicial functions of the Commission ought to be transferred need have no very great difficulty over their distribution. An expansion of the force and work of two of the great executive departments of the Federal Government, which would leave all their duties still strictly within the

* Twenty-second Annual Report of the Interstate Commerce Commission, p. 50.

† *Ibid.*, pp. 38, 39.

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scope of the purposes for which they exist, would provide properly for the execution of every such duty.

An excessive or an unjustly discriminatory charge for an interstate railway service amounts, in fact and in law, to an offence against the American public, and the Federal Government ought to provide for the prosecution of this class of wilful infractions of the law of the land, as it provides for the prosecution of other classes. Prosecutions looking toward the exaction of penalties for such violations of law, and the future enforcement of just and reasonable rates and rates not unfairly discriminatory among themselves ought to be instituted by the proper Federal authorities whenever there is reasonable ground for belief that unjust exactions or unjustly discriminatory rates are being enforced for any interstate railway service. Private prosecution should be necessary only when the purpose of the suit is to obtain an award of pecuniary damages for an infraction of the statute. The Department of Justice, with its complete and far-reaching organization under the control of the Attorney-General of the United States and represented in every section of the country by experienced and able attorneys, is obviously the proper department to initiate and prosecute both civil and criminal suits to prevent and punish offences against the laws of the United States. It might very properly be authorized to prosecute before the Interstate Commerce Commission complaints for which probable cause seemed to exist, whenever the private interest was inadequate to lead to complete presentation. Of course this department is that which ought to have the entire burden of prosecuting those charged with rebating or with violating the safety-appliance or hours-of-service laws. The duties and powers numbered 3, 4, 19, 20, 21 and possibly number 30 would thus be transferred to the Department of Justice as well as all duties in the enforcement of the supplementary laws referred to.

Whether the Bureau of Corporations shall remain a part of the Department of Commerce and Labor, as at present, or more consistently, perhaps, with the organization of both departments, shall be made a bureau in the Department of Justice, the propriety of utilizing it as the agency for performing the statistical work, for conducting the non-judicial investigations concerning interstate railway commerce and for exercising the actually administrative powers incident to their necessary regulation, is ap-

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parent. The Bureau of Corporations exists to collect data relating to the operations of corporations engaged in interstate commerce and to supply the executive and legislative branches of Government with information believed to illuminate the great problems which have arisen, and will hereafter arise, in the development of modern business methods. It has collected and compiled a great deal of information that has been used, during recent years, as the basis of prosecutions under the Sherman anti-trust law and the Cullom and Hepburn laws for the regulation of railways. But it has never reached its highest potential utility, because its normal and proper field was originally restricted, so as to avoid curtailing the functions of the Interstate Commerce Commission, by excluding from its field of activity the most important of all interstate corporations—that is to say, those owning and operating interstate railways. To add to the functions of the Bureau of Corporations those powers herein designated by numbers 2, 10, 24, 25, 26, 27, 28, 29 and 30 would improve the work both of the agency from which those duties were taken and of that to which they were transferred. The field of the Bureau of Corporations would then, for the first time in its history, be complete and symmetrical; the functions of the Commission would be harmonious and its temper would eventually become judicial.

Such is, in outline, the simple and effective plan which it is hoped will appeal to the good sense and practical judgment of Congress as forcibly as it has evidently appealed to Commissioner Prouty, to the President's most qualified advisers and to the President. It involves no impairment at any point of the proper work of railway or corporate regulation; it proposes no reduction in effectiveness; but, on the contrary, it would strengthen the whole scheme of regulation by making consistent with itself the work of every agency utilized, and by removing the potential or positive bias which has always weakened the confidence of the general public in the judicial impartiality of the Commission.

H. T. Newcomb.

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THE DECLARATION OF LONDON.

BY PAUL S. REINSCH.

DURING the last winter a work was accomplished which will stand as one of the great landmarks in international progress. Quietly, without any appeal to public attention, the London Naval Conference held its meetings and elaborated its convention. Not heralded with popular acclaim, nor surrounded with brilliant festivities, the council of expert representatives of the great powers accomplished results which constitute indeed a new departure in international life. A code of international law relating to the rights and duties of belligerents with respect to neutral commerce was accepted—a body of world law to be interpreted and applied by a standing international tribunal. Thus a true international judicature is at last to come into being.

The most important achievement of the Second Hague Conference (1907) was the adoption of a plan for an international court of appeals in prize cases. Hitherto all such cases have been tried by the courts of the state whose forces had made the respective capture. As these courts were bound by the instructions of their government great differences in principles and interpretation of the prize law arose and were perpetuated. National traditions had grown up based upon considerations of policy and of national necessity. But these divergent interpretations as to what objects could be captured as contraband, how a blockade was to be rendered effective, and similar questions, have caused great difficulties during every war of modern history. Never have the neutrals agreed that the law as enforced by the belligerents was in all its parts truly recognized and accepted as international law. During and after a war there have been recriminations and claims for indemnification which have sometimes overclouded the friendly relations between different

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Powers for decades before they could be satisfactorily settled. The institution of a court of appeals composed of judges representing all the Powers, a body of juristic experts in whose character and knowledge the world has confidence, would therefore remove one of the chief causes by which war is complicated and encumbered with incidental conflicts. The convention adopted by the Second Hague Conference provided for a standing court of fifteen judges. Certain contracting powers—Germany, the United States, Austria-Hungary, Great Britain, Italy, Japan and Russia—are always to have a representative. The other states are to participate in rotation. It is provided that in the decision of a judicial question "the court is to be guided by the treaties existing between the two parties involved. In the absence of treaty provisions the court shall apply the principles of international law, and if no generally recognized rule exists the court is to give judgment in accordance with the general principles of justice and equity." As the interpretation of the principles of international law by the different nations has been notoriously divergent and conflicting, it was thought advisable that a conference of the leading naval Powers should be summoned for the purpose of arriving at a harmonious and consistent formulation of the principles involved.

The Naval Conference was called by the British Government in 1908. Besides the inviting Government, there were represented the five great Continental powers of Europe—Germany, Austria-Hungary, France, Italy and Russia, as well as the United States and Japan. Spain was invited on account of her historic importance in the family of nations and her interest in maritime questions, and the Netherlands because the International Prize Court is to have its seat in that country. The composition of the London Conference, therefore, differed from that of the Hague Conference in that the nations there represented were those which actually have the determining power in the creation of international maritime law on account of their present naval strength. Among the personnel of the conference there were many noted authorities on maritime law. The principal delegate of Germany, M. Kriege, a member of the Hague Court, had taken a notable part in the Second Hague Conference. France was ably represented by M. Louis Renault, one of the leading spirits in both the Hague Conferences, a man whose learning

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and personality have been of the greatest influence in the present international movement. The British delegates were Lord Desart and Admiral Ottley. The principal delegate of Russia was Baron Taube of the University of St. Petersburg. The other Powers were similarly well represented. The delegates of the United States were Rear-Admiral Charles H. Stockton and Professor George G. Wilson, who had both taken part in the excellent work in the codification of international law undertaken of late by the Naval War College of Newport. The conference was in session from December 2nd, 1908, to February 26th, 1909. During this period it elaborated a convention of seventy-one articles.

The programme submitted by the British Government included the following matters:

"A. Contraband;
"B. Blockade;
"C. The doctrine of continuous voyages;
"D. The destruction of neutral prizes before condemnation by a court;
"E. Rules concerning unneutral services or hostile assistance;
"F. The transformation of merchantmen into war-vessels on the high seas;
"G. The transfer of a vessel from the flag of one nation to that of another during war;
"H. The question whether nationality or domicile is to determine the character of enemy property."

This comprehensive programme, including the entire field of belligerent rights as far as the law of prize is concerned, was carefully worked over by the conference; and, although they did not succeed in arriving at an agreement upon all the points suggested in the programme, nevertheless upon the far larger part they determined generally acceptable principles. It was, indeed, not to be expected that every point could be settled at this time. On the contrary, the achievement of the conference has transcended all expectations.

The most distinctive achievement of the conference would seem to lie in the articles of the convention dealing with contraband. Not only has the vexed question of the classification of contraband found a satisfactory settlement, but many other incidental problems, such as the proper test in making conditional contraband subject to confiscation, and the application of the doctrine of continuous voyage to contraband, have been settled in a manner so simple, lucid and just that the acceptance of the prin-

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ciples announced will certainly commend itself to the authoritative opinion of the world. Criticism of details will, indeed, be necessary as these conventions are applied in the course of time, but this cannot detract from the achievement of having laid down such clear and rational rules of adjudication. Material objects are divided into four classes in the Declaration of London—those which are absolutely contraband in time of war, those which are conditionally contraband, and those which shall under no circumstances become contraband. A fourth class—objects not embraced in any of the preceding—may be made contraband by special declaration of a belligerent Power. Articles absolutely contraband are those which are solely or principally utilizable in warfare, but to these there are added the following: draft animals, pack animals and saddle-horses, provided they are useful for military operations. Thus a matter about which there has been much controversy is settled by declaring for the absolute contraband quality of army horses and similar animals.

The principal objects contained in the list of conditional contraband are the following; provisions, articles of clothing proper for military use, gold and silver, vehicles and ships, materials for railways and telegraphs, flying-machines, fuel—in short, objects which are susceptible to military uses. Other objects that may be used for this purpose—*e. g.*, timber—may be added to the list of contraband by special declaration of the belligerent. Things which cannot be declared contraband comprise the raw materials of industry, such as cotton, wool, silk, minerals and crude drugs, as well as paper, soap, agricultural and industrial machinery, objects of furniture, etc.

Articles absolutely contraband may be seized if they are being transported to the territory of the enemy. They are not protected from seizure by the fact that before arrival at their final destination they are to be transshipped or carried overland. The principle of continuous voyage by which the entire traject of the contraband article is taken as one continuous route has thus been adopted with respect to articles absolutely contraband. Articles of conditional contraband may be seized if it is established that they are to be delivered to the armed forces or administration of the enemy state—*i. e.*, if they are being sent directly to the enemy authorities, or to a merchant who acts as furnishing agent, or to a place serving as a base of hostilities. Such articles, con-

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ditionally contraband, can be seized only if on a ship which is at the time engaged in a voyage to enemy territory. The doctrine of continuous voyage does not apply in this case, with the exception, however, that if the enemy territory does not have a maritime frontier articles of conditional contraband may be seized on the sea, though they are to be transported over neutral territory to the enemy country. The vessel carrying contraband is confiscable if the forbidden articles transported amount to one-half of the cargo, either on account of their value, or their weight, or the volume, or the freight charge paid upon them. The system thus elaborated contains a number of original elements, such as the last provision cited and the distinction between conditional and absolute contraband with respect to the doctrine of continuous voyage. However, in the main the work of the conference has been rather to strike a just mean between conflicting national policies of prize law and to arrive at a simple and just basis upon which the intercourse of nations can be founded in time of war. Considered as a system, the arrangement provided by the conference is admirably lucid and logical, each part bearing a carefully considered relation to the whole.

With respect to the law of blockade, the principle of the Declaration of Paris (1856) is reiterated and emphasized—that a blockade must be maintained by a naval force sufficiently large to make it effective. It is further provided that a blockade will not be considered effective unless due notice is given of the exact date of its commencement and of the geographical limits of the blockaded area. The most far-reaching provision is that the seizure of neutral vessels for violation of a blockade can only be effected in the radius of action of the war-vessels charged with making the blockade effective, nor can a vessel be taken after its pursuit has been given up by the ships of the blockading squadron. This provision strictly identifies the area within which seizures may be made for blockade-running with the area within which an effective blockade is being maintained. In considering the validity of a seizure for blockade-running, the court will therefore determine in the first place whether the ship was seized by a vessel of the blockading squadron and, secondly, whether the vessels of this squadron were so stationed and were present in such strength as to make the blockade effective. It will be seen that should the declaration be adopted by the Powers, it will

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henceforth not be possible to seize a vessel at a distance from the blockading squadron on account of its alleged purpose of breaking through a blockade. The seizure must, on the contrary, be a direct and integral part of the blockading operations. The question of notice of the blockade is so regulated that the neutrals will be assured of definite notification, so that hereafter no doubts may be entertained as to the validity of the seizure on account of a question of sufficient notice.

Many other matters of importance were settled by the conference. It was determined that a neutral ship carrying troops or despatches for the enemy may be confiscated. While the right of destroying prizes on account of military necessity was admitted, the exercise of the right was guarded in such a manner as to protect neutrals against losses due to arbitrary action. The captor in such cases must prove the presence of an exceptional necessity for the destruction of the prize, otherwise he will be liable for damages; if merchandise not subject to confiscation has been destroyed with the ship, or if the ship itself is not liable to seizure, the proprietors are to be indemnified. When neutral merchantmen are convoyed by a neutral war-vessel the word of the commandant of the latter as to the character of the merchantmen and their cargoes is to be accepted, and the vessels convoyed are to be exempt from visit and search. Should it be believed that the commander of the convoying vessel has been mistaken or deceived, his attention may be called to the suspicious facts. He is then himself to make an examination of the suspected vessel. His finding in this matter is, however, to be accepted by the belligerent, who is thus restrained from direct interference with convoyed merchantmen.

Upon two points of the programme no agreement was arrived at. The important question as to whether the nationality or the actual domicile of the proprietor of merchandise is to be the determining factor with respect to the enemy character of the latter could not be brought to a satisfactory conclusion, as none of the solutions suggested commended itself to the delegates of all the Powers. The attempt to determine such questions primarily on the basis of the nationality of the proprietor, and only in cases where that test should fail by his domicile, did also not receive unanimous support. Similarly the question of the legality of the transformation upon the high seas of a merchantman into

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a war-vessel could not be settled. The same views which had already been expressed at the Hague Conference of 1907 were again propounded and a union of opinion was not feasible.

With the results of the conference before us, it is possible to appreciate the great advance in international relations which their full acceptance will assure. Through making the rights of neutrals definite, the cause of many conflicts disappears. The belligerent still retains the power to protect himself fully against efforts to supply his opponent with war materials, but he can no longer proceed in an arbitrary manner. His action must be taken in accordance with certain definite rules and he must give due notice of his intentions. He is no longer permitted to give his rights an arbitrary and irrational extension. The science of international law is thus provided with a definite basis upon which there may be constructed a system of rules and precedents which will normalize commercial intercourse in times of war, which will make neutral merchants aware of their risks and duties, and will present the restrictions upon their trade not in the light of the national policy of a powerful belligerent, but, as a rule, supported by the public opinion of the world. The spirit of compromise shown at the conference was most commendable. Fortunately, the traditional policy of the United States is so much in accord with the principles laid down by the conference that it was not necessary for our Government to make many concessions. It enjoys the satisfaction of seeing its strong backing of these well-considered principles of its international jurisprudence crowned with the success which their inherent reasonableness entitles them to. The attitude of the British Government in this matter has been highly interesting. It was to be feared that the conflict between the interests of British maritime power and of Continental European militarism would stand in the way of fruitful results in the deliberations of the conference. But the British Government had realized that the time has passed when the policy of Great Britain is to be determined entirely from the point of view of belligerency. During the Russo-Japanese war the British Government learned by experience as a neutral the value of a more definite understanding concerning the principles of prize law. In his instructions to the British delegates, Sir Edward Grey therefore goes so far as to say that "His Majesty's Government are now desirous of limiting as far as pos-

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sible the right to seize for contraband, if not eliminating it altogether," and he pledges the support of his Government "to any proposal tending in the direction of freeing neutral Powers from undue interference by belligerents." He states, "The maintenance of these belligerent rights in their integrity, and the widest possible freedom for neutrals in the unhindered navigation of the seas, are the principles which should remain before your eyes as the double object to be pursued." The two principles here laid down by him are, indeed, apparently contradictory in their nature. Yet the conference solved this contradiction by making definite the rights of belligerents and thereby protecting neutrals against arbitrary interference and unreasonable regulation.

While the Declaration of London has generally commended itself to publicists and international-law experts, yet it has been bitterly attacked from the point of view of Great Britain. Thus a writer in the "Nineteenth Century" (Mr. Th. G. Bowles) is so carried away by indignation that he asserts that Great Britain has yielded upon all vital points. He looks back with regret to the British statesmen "who knew what war is." But the British Government is wiser than such criticism. Both the character of war and the relative position of the British Government have changed since the Napoleonic wars, and even since 1856. If we were to have an arbiter of the seas we should, indeed, just as gladly see Great Britain in that position as any other Power; but the times have passed when any one nation can exercise an absolutely controlling authority upon the sea. The arrogant policy of the British statesmen "who knew what war is" could not be continued to-day without arraying against Great Britain the public opinion of the world and eventually the public force of other great naval Powers that have grown up within the last two decades. The unreasonable character of such criticism is apparent when we remember that no real power of belligerency has been given up, but that the rules adopted are directed almost entirely against arbitrariness. It is, indeed, not a thing to be regretted that, under the present conditions of the world, no power will be permitted to pursue an utterly arbitrary policy in matters of international law. The recognition of this fact by the British Government is far more statesmanlike than would have been a policy of obstructing the growth of a definite law upon these important matters.

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The reception of the declaration has, in general, been so favorable that its ratification and adoption by the great Powers may be looked forward to with confidence. Constitutional lawyers of the United States have been confronted with the problem as to whether the Constitution would permit the creation by treaty of a court to which appeals would lie from our Supreme Court. It was feared that such an arrangement might be declared unconstitutional by that tribunal. In order to obviate such doubts and difficulties, which might oppose themselves to the ratification of the London Convention, there was passed a special resolution setting forth that as certain states experience difficulties in harmonizing the acceptance of the London Declaration with their system of constitutional law, it is to be left open to such states to regard the right of invoking the International Prize Court as a direct action for indemnity, rather than an appeal from the national tribunals. In the experience of the past there have, indeed, frequently been negotiations for indemnity for seizures which had been pronounced legal by the prize court of the belligerent, as notably in the Civil War claims cases. The institution of the International Court of Prizes may be looked upon as making the procedure in such cases regular. The procedure in the International Prize Court may be regarded either as an appeal from the Prize Courts of the belligerent, or as a direct action for indemnity for losses inflicted with the sanction of the national Prize Courts. The latter interpretation would obviate all constitutional difficulties. Our Government may give its accord to a regular form of determining international indemnities without thereby infringing the constitutional rights of the Supreme Court. As this difficulty in the way of the acceptance of the Declaration by our Government has thus disappeared, it is to be hoped that the Declaration of London may receive the ratification of the American Executive and Senate. In it are embodied many of the results of American diplomatic experience and of the best reasoning in our State Papers. The part which our State Department has taken in bringing about the creation of an International Prize Court and the formation of this admirable code of prize law should be crowned by a speedy adoption of both conventions by the American Government.

PAUL S. REINSCH.

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THE SOCIAL HEGEMONY OF ENGLAND.

BY SIDNEY WHITMAN.

I.

THE story of the influence which the social customs of dominant nationalities have exercised, from time to time, over the imagination of their contemporaries forms an interesting chapter in the history of civilization, and is indeed a valuable contribution to the study of the evolution of national character. This is certainly so in the most pregnant instances of fashion dominance in ancient and modern times—those of Greece and Rome, Italy, Spain and France. For, strange to say, the political systems which loom largest beside our own on the map of the world—Germany, Russia and the United States—have never exercised this peculiar fascination over other nations.

The political preponderance of France, and with it the exuberance of French national conceit, were so marked under Louis XIV that the Major-Domo of a distinguished German soldier of fortune serving in France, Marshal Duke von Schomberg, having committed some act of folly, could venture to address his master to his face: "*Parbleu! on me prendra pour un Allemand,*" implying thereby something coarse and stupid. "*On a tort,*" dryly replied the Marshal. "*On devrait vous prendre pour un sot.*"

The French nation enjoyed a good long innings in the European playground of human Vanity; for French fashions and fancies—taking the terms in their widest application—ruled more or less on the Continent of Europe down to within the memory of men now scarcely past middle age, who remember in their youth how the shape of our nether garments still came to us from Paris in the well-known "peg-top" trouser. But within the present generation England may be said to have usurped and finally taken over the part of Mentor of Fashion,

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played almost uninterruptedly by France for nearly two hundred and fifty years. For there were interruptions, as, for instance, the survival of the word "*redingote*" of English derivation tends to show. But French ideas generally, and with them the French language as a medium of social intercourse in polite society, dominated Europe more particularly throughout the eighteenth century.

During his residence in London (1726-8) Voltaire published a folio *édition de luxe* of "*La Henriade,*" to which half the English aristocracy paid homage as subscribers, because it was at that time "the thing" for society to recognize in Voltaire the supremacy of the French intellect. Later on Voltaire was the guest of Frederick the Great, and counted among his regular correspondents the King's own sister, the Margravine of Bayreuth, as also the Empress Catherine the Second of Russia. The Academy of Berlin had M. de Maupertuis as its president, who accompanied Frederick the Great into the field. In our day Englishmen have taken the place of Frenchmen in the personal favor of northern Royalty. Some years ago Lord Tennyson recited his poems to an admiring group of English, Danish and Russian Royalties near Copenhagen. A Continental Sovereign who is said to ignore the most distinguished authors of his own country sends telegrams in solicitous inquiry after the health of the apostle of British Imperialism, and leads the applause of theatrical audiences in his capital over the buffooneries of English farcical comedy. Voltaire's volumes lie worm-eaten on the bookshelves of French châteaux; and, in the very drawing-rooms in which Jean Jacques Rousseau was once hugged by admiring Duchesses, popular editions of Kipling's and Conan Doyle's works are to be seen on the table; although the weightier contributions to English literature and thought enjoy, perhaps, less vogue abroad than at any time since the eighteenth century.

Foreign activity in science is forcing our educators to take up Continental languages. At the University of Cambridge, for instance, the acquisition of German has become indispensable for those studying science or philosophy; whereas the English language is extending its boundaries abroad in social and commercial directions. English has long been compulsory in Norwegian schools, and is about to become so in German gymnasia. Innumerable English words, particularly those bearing on the re-

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lations of social life—such as "garden-party rout," "ladylike," "lady's man," "gentlemanlike," "fair play," "fair," and "unfair," etc.—have become Continental idioms. Baron Tauchnitz's Continental edition of British authors, consisting mostly of novels, has been another powerful means of spreading the vogue of the English language as a social influence right across the Continent. Finally, the English tongue is in daily use in more than half the Royal families of Europe, and English nurses are the earliest teachers of their offspring.

II.

Long before England's colonial Empire absorbed her more adventurous spirits, the Continent of Europe was overrun with English soldiers of fortune. In Italy, as far back as the fourteenth century, from the redoubtable Hawkwood to the Admirable Crichton—who, although a civilian, slew the most notorious bully of his day in single combat—individual Englishmen were renowned, and feared for their prowess in arms. The history of the Thirty Years' War, the Spanish War of Succession, the Seven Years' War could not be written unless due reference were made to the many English, Scotch and Irishmen, who joined in the fray and rose to eminence in their respective positions: daring pugnacity being their common characteristic. Thackeray has described such a worthy, though one of shady proclivities, in "The Memoirs of Barry Lyndon, Esq." To-day these fiery elements have disappeared, at least from the Continent of Europe; and where they fought once their descendants now play games, excel in the cut of their clothes—and give tone and laws to polite society. A highly respectable English Colony is usually in evidence in foreign petty capitals, of which the British diplomatic representative—staunchly supported by the English Chaplain—is the recognized head. Its more obtrusive members are adepts in the courtly art of ingratiating themselves with the reigning family. They are often admitted on terms of intimacy rarely accorded to the native nobility or the diplomatic representatives of other countries, and thus go to swell the social prestige of England on the Continent. It was the English minister at Darmstadt, Sir Robert Morier, who first suggested Dr. Hinzpeter as tutor for the present German Emperor to his parents.

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Englishmen and Englishwomen enjoy a somewhat exceptional position at foreign courts. Presentation in England, which has long been regulated on more liberal lines than in European autocratic countries, gives them in actual practice the right of being presented abroad. But, whereas persons of small note may be presented in England once and never subsequently heard of, much less invited to a Court function, it has been etiquette at some foreign courts for a stranger once presented to be regularly invited to Court as long as he remains in the capital even if his residence should last for years. I have known an English Captain of Militia and his wife to become *habitués* at a foreign court, regularly taking part in Court festivities for years: he a blameless gentleman, but one whose limited means would have bidden him be content in London with residence in Brompton furnished apartments, where, indeed, I met him and his ambitious spouse in after life.

The prestige which England and Englishmen in general have long enjoyed on the Continent is sufficiently accounted for by the dominant position England has occupied for generations in the world of politics and intellectual prowess, as well as by the independent status maintained by the free-born English commoner of ample means, long before a similar class had risen on the Continent of Europe. It is however, only in comparatively recent years that the present form of English Social Hegemony has become accentuated: strange to say, at a time when the superiority of our institutions and even our intellectual pre-eminence are here and there called into question.*

Until quite lately, when batches of English unemployed were first exported to the Continent as strike-breakers, Englishmen were seldom seen abroad, unless travelling as men of leisure, spending money. There is scarcely a harbor in Europe in which, at some time of the year, a sumptuous English private yacht, with its spick and span crew, is not to be seen and admired. But no evidence is forthcoming to show the foreigner the squalid aspect of our seaport towns—the grimy squalor of the human refuse they contain. These factors have not been without their bearing in conferring upon the English-speaking race the social consideration it has so long uncontestedly enjoyed abroad.

* A German writer recently asserted that Hume is, perhaps, the first of English empiric philosophers; this, however, was not saying much.

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We send deputations of experts to the Continent to study foreign municipal, educational, industrial, scientific methods and institutions, whilst the foreigner is more eager than ever to copy the cut of our clothes and to assimilate our "stage properties" all round. The worst performance of "The Merchant of Venice" it has ever been my misfortune to witness I saw recently in Berlin. Its whole trend and interpretation were slavishly adapted from the latest fancies of the London actor-manager, without a trace left of the dignity and distinction which marked the German classic stage forty years ago. The eroticism of Oscar Wilde has also become fashionable abroad, and Germany is producing extravagant imitation of this man's wildest eccentricities. London is the only great city of the world which does not possess a permanent representative Opera Company; yet, so thoroughly does England dictate popular fashion in these matters, that a middle-aged Italian lady singer, after appearing in Europe for years without attracting any particular attention, leaped suddenly overnight into world-wide fame after singing at the Covent Garden Opera House.

III.

The cultivation of sport on the Continent is an effective promoter of that deference to social England which is so marked a feature of our time, inasmuch as English methods are the ones invariably accepted and imitated. The slang of the English race-course has become part and parcel of almost every European language, at least in the newspapers. Horse-racing and betting have spread in every direction, and yachting is to the fore wherever a patch of water can serve to float a keel. The Germans have instituted a so-called "*Kieler-Woche*" in literal imitation of the Cowes week. It is somewhat significant that these most costly forms of sport are spreading abroad at a time when impecuniosity is affecting a large proportion of those who were once solely responsible for their vogue: the English aristocracy.

Continental watering-places are overrun with English amateur athletes, in the same way as they used to be patronized by French, Spanish, Greek and South-American "punters" in the good old gambling days. There are the champion golf, croquet and tennis players, strutting about in their flannels and "knickers," which

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only a few years ago were considered highly improper among strait-laced natives. The podgy German *Commerzienrath* looks on perspiring in envy, whilst Russian Grand Dukes and German transparencies galore join English nobodies of both sexes in knocking a ball across a net. The new King of Sweden is the most enthusiastic of tennis-players, and has had special courts built at which he has entertained and played against English champions.

Whenever Englishmen gather together on the Continent a Golf Club or a Lawn Tennis Club is started in the same matter-of-fact, businesslike spirit in which the foundation of an English church abroad is laid. And as it has generally been understood that the local authorities should make a present of the site of the building, so also now in the matter of games some surrender is expected from them. The Emperor Francis Joseph places a large piece of ground in the centre of the Prater at the disposal of the Vienna Golf Club, rent free. Anybody conversant with the game of golf knows what a princely gift this is, inasmuch as a set of golf-links may cover between one and two miles of ground. However, it is all taken as a matter of course. The idea would never occur to anybody to ask whether the King of England might be willing or, indeed, able to place a similar site at the free disposal of a French or German Club in London. It may be accepted as a further proof of the firm hold of English Social Hegemony in Austria-Hungary that, although the Dual Monarchy has received some hard knocks from English politicians in days gone by, the Emperor himself, as well as his subjects, harbors sentiments of sincere admiration for England and the English. The Austrian or the Hungarian aristocrat is never happier than when he is dressed up like an Englishman, looks like an Englishman and is mistaken for one. If of high degree, he and his family in all probability speak English and read English novels. Their trainers, coachmen and valets are often Englishmen. I have known a Hungarian magnate of exalted lineage to occupy a box in a Vienna theatre whilst his English valet sat in evening dress in the stalls.

The subaltern of crack regiments in Berlin, Paris or Vienna, however much he may savor of his own nationality as long as he is in uniform, no sooner dons civilian attire than he imitates the Englishman in dress and manner. More particularly is this

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the case if he belongs to the upper crust of society which lives in touch with the diplomatic world. He shakes hands in that unaccountable fashion of lifting the elbow at an impossible angle away from the body which has as its birthplace the flagstones of Piccadilly. His clothes are English in cut; many of his class have their garments made in London, as an inspection of the leading West End tailors' cutting-rooms plainly shows: for within a stone's throw of Bond Street are to be seen the patterns of half the Almanach de Gotha. All that is left of the Crusaders as regards "measurements" may be inspected here. Yet, strange to say, the artists who carry out the ideas upon which all this Culture of Clothes is based are mostly foreigners. The Academy of Tailors in Berlin alone is said to have thrown 28,000 skilled cutters upon the world. Thus it occasionally happens that a foreign Prince, trying on a pair of "unmentionables," which he fondly fancies embodies the latest English "cut," is disenchanted, if not disgusted, to find his questions answered in his own native tongue. And a similar unpleasant experience is apt to befall his womankind in the purchase of female attire in the West End of London.

The paramount influence wielded by a relatively small number of Englishmen, in all matters connected with dress throughout the world, was recently markedly illustrated by a trivial incident. An American publication had asserted that a certain article of dress—to wit, a lounge coat—owed its inception to New York. Thereupon, the editor of a London periodical devoted to the interests of the trade, "The London Tailor," retorted, denying that America had invented any new style of garment or that any article of male attire worn in England or Europe had ever originated in the States. The sartorial blast of defiance concluded as follows: "I venture to add that every garment worn by men at the present time throughout civilized Europe, as well as in the States, had in some form or other its origin in Britain." In other words, London is to-day the Mecca of clothes, the centre of the fashionable tailoring of the world from which the knights-errant of scissors and needle, of tape and of pressing-irons, are continually on the road between New York, Washington, Paris and St. Petersburg, taking the measures and booking the orders of their clients.

Some foreign enthusiasts have their shirts regularly sent over

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to London and washed in the slums of Soho, vowing that the far-famed Parisian *blanchisseuse* has lost the secret of her art. So slavish is the imitation of English fashions, down to minute details, that the shape of a collar, of a cravat, yes, even the harmless English eccentricity of wearing a white collar with a colored shirt are slavishly imitated by foreigners of high degree. A powerful Continental sovereign has recently been photographed in civilian dress with hands in trouser pockets, and with the bottom of these garments turned up in English fashion as naturally as if to the manner born; though both these eccentricities of manner, as well as the fashionable slouching gait, are rank heresy among nations trained by the drill sergeant.

IV.

Court costumes in Berlin have been modified in accordance with English ideas. Powerful influences are at work to make evening dress obligatory for hotel diners and theatregoers, though the stolid Teuton still "kicks" at this latest Pagodaism, as well as at the introduction of the so-called English Sunday. The effeminate custom of men wearing bangles on their wrist, which originated in subaltern military circles in England only to be severely reprobated by commanding officers, is imitated by officers of fashionable Prussian regiments for whom the old standards of high thinking and plain living have apparently ceased to possess much attraction. English and American standards of luxury and extravagance have effectually made inroads here.

English cheap teas, the inferior qualities of which are not even admitted to the ports of Hamburg or New York, are eagerly consumed, together with our cheap jams and biscuits. I have seen the well-known Bath Oliver biscuits handed round as a delicacy at select social functions abroad. A Russian Grand Duke of bibulous propensities takes to drink—Scotch whiskey. His English friends are said to have recommended it to him in lieu of "vodka" or beer and champagne mixed, as more wholesome and, like a certain kind of cocoa, as "going farthest." But, perhaps, the most amusing example of staunch belief in our superiority—at least, for those who have eyes to see, and to note the unwashed appearance of a London crowd—is the prestige we enjoy abroad as regards our national cleanliness. Big sponges are to be seen in Paris shop windows—not a stone's throw from

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the French Academy—inscribed "*Eponge pour le Tub,*" and this although, as recently as a couple of generations ago, there was scarcely a house or a hotel in London in which a bath-room was to be found.

My neighbor at a select dinner-table, an officer in high command, informed me that, after consulting in vain the most eminent physicians in Berlin, he had been successfully treated for his deafness by a London specialist. I subsequently learned that he had got into the hands of a notorious advertising quack. The same august personage blandly assured me that there was no school on the Continent deserving comparison with — Eton!

London has displaced Paris as the centre of luxury and fashion to which come during the season the rank and wealth of the whole world. Nearly forty years ago, the late Earl Dudley, about to wed the beautiful daughter of Sir Thomas Moncrieff, could not find diamonds in London worthy to offer to his bride. He crossed over to Calais on a stormy night and ransacked the jewellers' shops of the Rue de la Paix to the tune of £50,000. To-day the leading Paris jewellers as well as the fashionable Paris dressmaker, both of which once monopolized the patronage of the world, are obliged to start branches of their businesses in London. And when the customers of the former, among whom are various crowned heads, are unable to pay their bills, or when they go out of business altogether, as Kings nowadays are apt to do, and die in exile, leaving a lot of jewelry and little cash to their heirs, it is to London again that their "properties" are sent, to be finally disposed of under the hammer at Christie's.

The fascination which London has exercised of recent years upon foreigners of rank and wealth is one of the most striking features of the social dominion of England. The courts of Berlin, St. Petersburg or Madrid may be more brilliant than that of St. James's, but to the cosmopolitan world of fashion the attractions of the social life of London are supreme. Year by year, more foreigners throng to the King's levees and drawing-rooms. Indeed, it is no exaggeration to say that, since Napoleon the First gathered a pitful of Royalties to do him homage at the Congress of Erfurt in 1808, there has never been such a galaxy of Kings seen together as of late in London.

The stranger of high degree who comes to England, be he a Monarch, a great noble or a millionaire, in all probability

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hails from a country in which the bulk of the people, whatever be their political disabilities, live a social life of their own, based upon standards of their own,—the key-note of which is daily becoming more and more that of Thomas Carlyle's gospel of strenuous work. The leading newspapers scarcely notice the existence of fashionable society, whereas the Socialistic press which appeals to many millions of readers does not even refer to the births and marriages in the reigning families. There is little of the reverence of other days left among the masses or, for the matter of that, among the educated classes on the Continent of Europe. Even the millionaire—the real hard-cash Crœsus—has by no means got things all his own way either in Paris, Berlin, Vienna, St. Petersburg or New York. We read of wealthy men in the United States being pursued by a fierce raucous publicity. A Russian Emperor, an Austrian Empress, a King of Italy, a King and Queen of Servia, a President of the French Republic and two Presidents of the United States have all fallen by the hand of assassins within one generation. Even Princes of the Roman Catholic Church have been subject to persecution, imprisonment and violent death in our time. Important institutions, such as the Army and the Church, are continually being held up to ridicule, if not to hatred and contempt, in the so-called comic papers, which circulate throughout the Continent and exercise a potent political influence. Indeed, the task of governing the people is becoming more onerous year by year. It is as if the distant rumbling of a storm could be heard, threatening those in exalted position in almost every country but happy England, where the utmost degree of liberty exists together with a security of person and property unique in the whole world; the latter made eloquently evident by the enormous investments of foreign notabilities in British securities. Here is still to be found genuine homage paid by the great mass of the population to the wealthy money-spender, whatever be his other qualifications. A distinguished foreign statesman assures me that he was surprised to note the deferential effect which a well turned-out carriage seems to produce on these walking on foot in London, and more particularly in the country. The sentiment of worship of their "betters" has not yet died out among the English people. The popularity of an English Duke of sporting proclivities is a thing unparalleled all the world

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over, whilst the spread of democracy has apparently strengthened the monarchical feeling of the nation inasmuch as English royalty is at times in a quandary how to deal with the exuberant manifestations of popular curiosity and affection. These features of English social life strike the high-born foreigner with wonder and admiration, and tend to make England (or, to be exact, the West End of London, the race-course, the Isle of Wight in the yachting season, and the country-seats of the English aristocracy, for this is about all that interests him or that he ever gets to see of England) an ideal resort for him and his class. He meets everywhere with a deference to rank and wealth, on the part of the community at large, with which he has not been surfeited in his own country. The exalted personage whose daily doings at home are either scarcely noted outside Court circles—or whose slightest deviation from the conventionalities of public life encounters carping criticism—is delighted to find himself the object of the enthusiastic cheers of a London crowd. If his motor-car meets with an accident, which in his own country would probably lead to his being covertly railed at by a bitter Socialist Press, he is praised for his coolness and his consideration for others. His attendance at public functions is followed up by elaborate pictures in the illustrated papers, coupled with eulogistic descriptions of his dignified appearance, the charm, grace and condescension of his womankind. If he is called upon to reply to Municipal Addresses of almost Byzantine amiability, his utterances are extolled next morning, again for the delectation of millions of readers, as the product of supreme tact and wisdom. In due course he becomes a lavish subscriber to English press-cutting agencies, and revels in the homage paid to him by an enterprising press and an unsophisticated public. In fact, a regular portion of the daily hard work which he is gratuitously credited with is really devoted to the intoxicating occupation of perusing whole sheafs of English press cuttings of an adulatory nature.*

No wonder that the foreigner, gratified in his vanity and

* The following may be taken as a typical example of the matter referred to above, copied from a newspaper with over a million readers: "A charming scene took place at Asprey's, Bond Street, show-rooms yesterday, when Queen Amélie of Portugal and the King of Spain, who were both there buying presents, happened to meet. Both their Majesties had spent a considerable time in the building before becoming aware of each other's presence."

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observing only the surface of things, remaining throughout superbly ignorant of their real deeper significance, is delighted, and in his delight is not backward in extolling the institution and conditions of life of a country, the press and people of which have shown so extravagant an interest in and appreciation of himself and his kind. Indeed, it is becoming customary of late for foreign royalties, on quitting England's hospitable shores, to return formal thanks to the press for favors received. Thus does English journalism play a not unimportant part in contributing its share to the Social Hegemony of England.

V.

An Ambassadorship in London which was once looked upon more or less as a penance by distinguished diplomatists, if only on account of the English climate, is now the great prize of the diplomatic service. And if it brings in its train a fair share of invitations to the Royal dinner-parties and Ducal country houses, then, indeed, the goal of earthly ambition, social success in England, is won. Has not a foreign monarch recently declared that he was in uncertainty whether he would not rather be an English country gentleman than a monarch in his own country?

Minor diplomatic stars are charmed by the reception Social England accords to them as such. Once acclimatized to English life—and in course of time placed on the Retired List—they find that they can no longer be happy without the social incense to which they have become accustomed in England. They thus often make London their lasting home, and in their retirement live upon the connections which they have acquired during their residence there as full-blown "Ministers Extraordinary and Plenipotentiary," whereas, in their own country, once ousted from official life, they are nobodies. In the world of aristocratic sport, yachting and racing, similar phenomena are to be observed. A Russian Prince has only to run horses for our great races in order to leap into popularity at a bound. He reads with delight the news conveyed by the press that he possesses all the best characteristics of an Englishman; whereas, in sober truth, the only touch he may ever get with the people of England during a residence of years is the mud which his carriage, in driving through the streets, splashes upon the unwashed crowd.

Under such conditions, the foreigner gets to like England

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and to bow down to the social code prevailing among us, sometimes with queer results. If of flabby fibre, the temptations of English high life, pleasure-hunting and reckless extravagance are apt to prove too much for him, as witness a few notorious cases in which "distinguished" foreigners have cut undignified figures of late in the English Law Courts. The Don Juan who in his own country seduces the wife of his brother officer and, by means of the queer code of honor prevailing there, is allowed to add to his record of villainy by becoming the licensed assassin of the wronged husband, finds that no such thing is tolerated or indeed possible in England, unless he cares to face the felon's doom as a common murderer. The Bobadil who breathes fire and slaughter in his own country, and to whom foul slander and intrigue are as the breath of his nostrils, is very soon made to feel the taming effect of English Social Conventions, and "coos" as gently as any sucking dove on admission to an English drawing-room. These worthies fear the cold terrors of social ostracism from English society more than sword or pistol, and are thus generally on their good behavior, at all events as far as outward appearances go whilst within our shores.

Here at least the Social Hegemony of England has had a beneficial effect by enforcing a certain discipline and self-repression all round; whereas unbridled self-indulgence on the lines indicated has for some time past been one of the festering sores of society on the Continent of Europe. In this it may be confidently asserted that England by her code of manners and her rigid enforcement thereof has added to the decency and decorum of nations.

VI.

England is apparently Americanizing her methods, if not her institutions, one after the other: American managers run our "shows" and American slang has entered into our daily vocabulary to an extent scarcely realized; but the wealth and fashion of the United States still render homage to English royalty and the social life of English aristocracy. Quite a colony of American millionaires have taken up their abode permanently among us. The parents of lovely American women who have chosen titled Englishmen for their husbands have been known unable to withstand the attractions of English fashionable life, and have come over bag and baggage after their married daughters to

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make England their home. One of America's most distinguished diplomatists—a man noted for his strong partiality for Continental life—confessed to me some years ago that, since he and his family had passed a season in London, he was unable to get his wife to see anything except through English spectacles. Our powers of assimilation are, indeed, for the moment stupendous; and it is perhaps not surprising if our self-esteem sometimes is more marked than our discretion.

King Leopold in writing to his niece, Queen Victoria, told her that the French and English are the two nations which possess the most exaggerated sense of their own importance. If this be so, then in view of the homage paid to us from every side in the form of imitation—that sincerest and thus most dangerous form of flattery—we might well plead extenuating circumstances in our favor. Surely, there is some excuse for the weaker-headed among us who occasionally betray an affinity with Marshal von Schomberg's Major-Domo already referred to, and proudly resent the imputation of belonging to any other nation. But England's Social Hegemony might also suggest more serious reflections. Does it, as in the parallel cases of Rome, Italy and Spain, herald the sunset of a nation's greatness? Or does it only point to a superficiality of interests, a softening of the fibre, among an aristocracy in the term's broadest, best meaning, which, in the course of a pre-eminence of centuries, has given to the world the British conception of loyalty, veracity and personal freedom, a class which has evolved as its best product the English gentleman and his complement the English lady, as she still speaks to us in the female characters of Shakespeare, and gazes down upon us in her peerless beauty from the frames of Sir Joshua Reynolds's pictures?

To this momentous question only the future can supply an answer. In the mean time it might be as well we should realize that, though the foreigner may admire our extravagances and ape the cut of our clothes, it is only by a maintenance of those sterling qualities to which in the first instance we owe our national greatness and its latest adumbration, our Social Hegemony, that England can hope to maintain her dominant position in the world.

SIDNEY WHITMAN.

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THE NOVELS OF THOMAS HARDY.

BY WILLIAM LYON PHELPS, LAMPSON PROFESSOR OF ENGLISH LITERATURE AT YALE.

THE father of Thomas Hardy wished his son to enter the church, and this object was the remote goal of his early education. At just what period in the boy's mental development Christianity took on the form of a meaningless fable we shall perhaps never know; but after a time he ceased to have even the faith of a grain of mustard seed. This absence of religious belief has proved no obstacle to many another candidate for the Christian ministry, as every habitual churchgoer knows; or as any son of Belial may discover for himself by merely reading the prospectus of summer schools of theology. There has, however, always been a certain cold, mathematical precision in Mr. Hardy's way of thought that would have made him as uncomfortable in the pulpit as he would have been in an editor's chair, writing for salary persuasive articles containing the exact opposite of his individual convictions. But, although the beauty of holiness failed to impress his mind, the beauty of the sanctuary was sufficiently obvious to his sense of art. He became an ecclesiastical architect, and for some years his delight was in the courts of the Lord. Instead of composing sermons in ink, he made sermons in stones, restoring to many a decaying edifice the outlines that the original builder had seen in his vision centuries ago. For no one has ever regarded ancient churches with more sympathy and reverence than Mr. Hardy. No man to-day has less respect for God and more devotion to His house.

Mr. Hardy's professional career as an architect extended over a period of about thirteen years, from the day when the seventeen-year-old boy became articled, to about 1870, when he forsook the pencil for the pen. His strict training as an architect has been

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of enormous service to him in the construction of his novels, for skill in constructive drawing has repeatedly proved its value in literature. Rossetti achieved positive greatness as an artist and as a poet. Stevenson's studies in engineering were not lost time, and Mr. De Morgan affords another good illustration of the same fact. Thackeray was unconsciously learning the art of the novelist while he was making caricatures, and the lesser Thackeray of a later day—George du Maurier—found the transition from one art to the other a natural progression. Hopkinson Smith and Frederick Remington, on a lower but dignified plane, bear witness to the same truth. Indeed, when one studies carefully the beginnings of the work of imaginative writers, one is surprised at the great number who have handled an artist's or a draughtsman's pencil. A prominent and successful playwright of to-day has said that if he were not writing plays he should not dream of writing books; he would be building bridges.

Mr. Hardy's work as an ecclesiastical architect laid the real foundations of his success as a novelist; for it gave him an intimate familiarity with the old monuments and rural life of Wessex, and at the same time that eye for precision of form that is so noticeable in all his books. He has really never ceased to be an architect. Architecture has contributed largely to the matter and to the style of his stories. Two architects appear in his first novel. In "A Pair of Blue Eyes" Stephen Smith is a professional architect, and in coming to restore the old Western Church he was simply repeating the experience of his creator. No one of Mr. Hardy's novels contains more of the facts of his own life than "A Laodicean," which by the way was composed on what the author then believed to be his death-bed; it was mainly dictated, which I think partly accounts for its difference in style from the other tales. The hero, Somerset, is an architect whose first meeting with his future wife occurs through his professional curiosity concerning the castle; and a considerable portion of the early chapters is taken up with architectural detail, and of his enforced rivalry with a competitor in the scheme for restoration. Not only does Mr. Hardy's scientific profession speak through the mouths of his characters, but old and beautiful buildings adorn his pages as they do the landscape he loves. In "Two on a Tower" the ancient structure appears here and there in the story as naturally and incidentally as it would to a pedestri-

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an in the neighborhood; in "A Pair of Blue Eyes" the church tower plays an important part in a thrilling episode, and its fall emphasizes a Scripture text in a diabolical manner. The old church at Weatherbury is so closely associated with the life history of the men and women in "Far From the Madding Crowd" that as one stands in front of it to-day the people seem to gather again about its portal.

But while Mr. Hardy has drawn freely on his knowledge of architecture in furnishing animate and inanimate material for his novels, the great results of his youthful training are seen in a more subtle and profounder influence. The intellectual delight that we receive in the perusal of his books—a delight that sometimes makes us impatient with the work of feebler authors—comes largely from the architectonics of his literary structures. One never loses sight of Hardy the architect. In purely constructive skill he has surpassed all his contemporaries. His novels—with the exception of "Desperate Remedies" and "Jude the Obscure"—are as complete and as beautiful to contemplate as a sculptor's masterpiece. They are finished and noble works of art and give the same kind of pleasure to the mind as any superbly perfect outline. Mr. Hardy himself firmly believes that the novel should first of all be a story: that it should not be a thesis, nor a collection of reminiscences or *obiter dicta*. He insists that a novel should be as much of a whole as a living organism, where all the parts—plot, dialogue, character and scenery—should be fitly framed together, giving the single impression of a completely harmonious building. One simply cannot imagine him writing in the manner of a German novelist with absolutely no sense of proportion; nor like the mighty Tolstoi, who steadily sacrifices art on the altar of Reality; nor like the great English school represented by Thackeray, Dickens, Trollope and De Morgan, whose charm consists in their intimacy with the reader; they will interrupt the narrative constantly to talk it over with the merest bystander, thus gaining his affection while destroying the illusion. Mr. Hardy's work shows a sad sincerity, the noble austerity of the true artist, who feels the dignity of his art and is quite willing to let it speak for itself.

His earliest novel, "Desperate Remedies" (1871), is more like an architect's first crude sketch than a complete and detailed drawing. Strength, originality and a thoroughly intelligent de-

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sign are perfectly clear; one feels the impelling mind behind the product. But it resembles the *plan* of a good novel rather than a novel itself. The lines are hard; there is a curious rigidity about the movement of the plot which proceeds in jerks, like a machine that requires frequent winding-up. The manuscript was submitted to a publishing firm, who, it is interesting to remember, handed it over to their professional reader, George Meredith. Mr. Meredith told the young author that his work was promising; and he said it in such a way that the two men became lifelong friends, there being no more jealousy between them than existed between Tennyson and Browning. Years later Mr. Meredith said that he regarded Mr. Hardy as the real leader of contemporary English novelists; and the younger man always maintained toward his literary adviser an attitude of sincere reverence, of which his poem on the octogenarian's death was a beautiful expression. There is something fine in the honest friendship and mutual admiration of two giants, who cordially recognize each other above the heads of the crowd, and who are themselves placidly unmoved by the fierce jealousy of their partisans. In this instance, despite a total unlikeness in literary style, there was genuine intellectual kinship. Mr. Meredith and Mr. Hardy were both Pagans and regarded the world and men and women from the Pagan standpoint, though the deduction in one case was optimism and in the other pessimism. Given the premises, the younger writer's conclusions seem more logical; and the processes of his mind were always more orderly than those of his brilliant and irregular senior. There is little doubt (I think) as to which of the two should rank higher in the history of English fiction, where fineness of art surely counts for something. Mr. Hardy is a great novelist; whereas to adapt a phrase that Arnold applied to Emerson, I should say that Mr. Meredith was not a great novelist; he was a great man who wrote novels.

Immediately after the publication of "Desperate Remedies," which seemed to teach him, as "Endymion" taught Keats, the highest mysteries of his art, Mr. Hardy entered upon a period of brilliant and splendid production. In three successive years, 1872, 1873 and 1874, he produced three masterpieces—"Under the Greenwood Tree," "A Pair of Blue Eyes" and "Far From the Madding Crowd"; followed four years later by what is, perhaps, his greatest contribution to literature, "The Return of the

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Native." Even in literary careers that last a long time, there seem to be golden days when the inspiration is unbalked by obstacles. It is interesting to contemplate the lengthy row of Scott's novels, and then to remember that "The Heart of Midlothian," "The Bride of Lammermoor" and "Ivanhoe" were published in three successive years; to recall that the same brief span covered in George Eliot's work the production of "Scenes of Clerical Life," "Adam Bede" and "The Mill on the Floss"; and one has only to compare what Mr. Kipling accomplished in 1888, 1889 and 1890, with any other triennial, to discover when he had what the Methodists call "liberty." Mr. Hardy's career as a writer has covered about forty years; omitting his collections of short tales, he has written fourteen novels; from 1870 to 1880, inclusive, seven appeared; from 1881 to 1891, five; from 1892 to 1902, two; since 1897 he has published no novels at all. With that singular and unfortunate perversity which makes authors proudest of their lamest offspring, Mr. Hardy has apparently abandoned the novel for poetry and the poetic drama. I suspect that praise of his verse is sweeter to him than praise of his fiction; but, although his poems are interesting for their ideas, and although we all like the huge "Dynasts" better than we did when we first saw it, it is a great pity from the economic point of view that the one man who can write novels better than anybody else in the same language should deliberately choose to write something else in which he is at his very best only second rate. The world suffers the same kind of economic loss (less only in degree) that it suffered when Milton spent twenty years of his life in writing prose; and when Tolstoi forsook novels for theology.

It is probable that one reason why Mr. Hardy quit novel-writing was the hostile reception that greeted "Jude the Obscure" (1895). Every great author, except Tennyson, has been able to endure adverse criticism, whether he hits back, like Pope and Byron, or whether he proceeds on his way in silence. But no one has ever enjoyed or ever will enjoy misrepresentation; and there is no doubt that the writer of "Jude" felt that he had been cruelly misunderstood. It is, I think, the worst novel he has ever written, both from the moral and from the artistic point of view; but the novelist was just as sincere in his intention as when he wrote the earlier books. The difficulty is

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that something of the same change had taken place in his work that is so noticeable in that of Björnson; he had ceased to be a pure artist and had become a propagandist. The fault that marred the splendid novel, "Tess of the D'Urbervilles," ruined "Jude the Obscure." When Mr. Hardy wrote on the title-page of "Tess" the words, "A Pure Woman Faithfully Presented," he issued defiantly the name of a thesis which the story (great, in spite of this) was intended to defend. To a certain extent, his interest in the argument blinded his artistic sense; otherwise he would never have committed the error of hanging his heroine. The mere hanging of a heroine may not be in itself an artistic blunder, for Shakespeare hanged Cordelia. But Mr. Hardy executed Tess because he was bound to see his thesis through. In the prefaces to subsequent editions the author turned on his critics, calling them "sworn discouragers of effort," a phrase that no doubt some of them deserved; and then, like many another man who believes in himself, he punished both critics and the public in the Rehoboam method by issuing "Jude the Obscure." Instead of being a masterpiece of despair, like "The Return of the Native," this book is a shriek of rage. Pessimism, which had been a noble ground quality of his earlier writings, is in "Jude" merely hysterical and wholly unconvincing. The author takes obvious pains to make things come out wrong; as in melodramas and childish romances the law of causation is suspended in the interest of the hero's welfare. Animalism, which had partially disfigured "Tess," became gross and revolting in "Jude"; and the representation of marriage and the relations between men and women, instead of being a picture of life resembled a bad dream. It is a matter of sincere regret that Mr. Hardy has stopped novel-writing, but we want no more "Judes." Didactic pessimism is not good for the novel.

"The Well-Beloved," published in 1897, but really a revision of an earlier tale, is in a way a triumph of art. The plot is simply absurd, almost as whimsical as anything in "Alice in Wonderland." A man proposes to a young girl and is rejected; when her daughter is grown, he proposes to the representative of the second generation and with the same ill fortune. When *her* daughter reaches maturity, he tries the third woman in line and without success. His perseverance was equalled only by his bad luck, as so often happens in Mr. Hardy's stories. And yet, with

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a plot that would wreck any other novelist, the author constructed a powerful and beautifully written novel. It is as though the architect had taken a wretched plan and yet somehow contrived to erect on its false lines a handsome building. The book has naturally added nothing to his reputation, but as a *tour de force* it is hard to surpass.

It is pleasant to remember that a man's opinion of his own work has nothing to do with its final success and that his best creations cannot be injured by his worst. Tolstoi may be ashamed of having written "Anna Karenina" and may insist that his sociological tracts are superior productions, but we know better and rejoice in his powerlessness to efface his own masterpieces. We may honestly think that we should be ashamed to put our own names to such stuff as "Little Dorrit," but that does not prevent us from admiring the splendid genius that produced "David Copperfield" and "Great Expectations." Mr. Hardy may believe that "Jude the Obscure" represents his zenith as a novelist and that his poems are still greater literature; but one reading of "Jude" suffices, while we never tire of re-reading "Far From the Madding Crowd" and "The Return of the Native." Probably no publisher's announcement in the world to-day would cause more pleasure to English-speaking people than the announcement that Thomas Hardy was at work on a Wessex novel with characters of the familiar kind.

For "The Dynasts," which covers the map of Europe, transcends the sky, and deals with world-conquerors, is not nearly so great a world-drama as "A Pair of Blue Eyes," that is circumscribed in a small corner of a small island, and treats exclusively of a little group of commonplace persons. Literature deals with a constant human nature, which is the same in Wessex as in Vienna. As the late Mr. Clyde Fitch used to say, it is not the great writers that have great things happen to them; the great things happen to the ordinary people they portray. Mr. Hardy selected a few of the southwestern counties of England as the stage for his prose dramas; to this locality he for the first time, in "Far From the Madding Crowd," gave the name Wessex, a name now wholly fictitious, but which his creative imagination has made so real that it is constantly and seriously spoken of as though it were English geography. In these smiling valleys and quiet rural scenes, "while the earth keeps up her terrible composure," the farmers

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and milkmaids hold us spellbound as they struggle in awful passion. The author of the drama stands aloof, making no effort to guide his characters from temptation, folly, and disaster, and offering no explanation to the spectators, who are thrilled with pity and fear. But one feels that he loves and hates them as we do, and that he correctly gauges their moral value. The very narrowness of the scene increases the intensity of the play. The rustic cackle of his bourg drowns the murmur of the world.

Mr. Hardy's knowledge of and sympathy with nature is of course obvious to all readers, but it is none the less impressive as we once more open books that we have read many times. There are incidentally few novelists who repay one so richly for repeated perusals. He seems as inexhaustible as nature herself, and he grows stale no faster than the repetition of the seasons. It is perhaps rather curious that a man who finds nature so absolutely inexorable and indifferent to human suffering should love her so well. But every man must love something greater than he, and as Mr. Hardy has no God, he has drawn close to the world of trees, plains, and rivers. His intimacy with nature is almost uncanny. Nature is not merely a background in his stories, it is often an active agent. There are striking characters in "The Return of the Native," but the greatest character in the book is Egdon Heath. The opening chapter, which gives the famous picture of the Heath, is like an overture to a great music-drama. The *Heath-motif* is repeated again and again in the story. It has a personality of its own, and affects the fortunes and the hearts of all human beings who dwell in its proximity. If one stands to-day on the edge of this Heath at the twilight hour, just at the moment when Darkness is conquering Light—the moment chosen by Mr. Hardy for the first chapter—one realizes its significance and its possibilities. In "Tess of the D'Urbervilles" the intercourse between man and nature is set forth with amazing power. The different seasons act as chorus to the human tragedy. In "The Woodlanders" the trees seem like separate individualities. To me a tree has become a different thing since I first read this particular novel.

Even before he took up the study of architecture, Mr. Hardy's unconscious training as a novelist began. When he was a small boy, the Dorchester girls found him useful in a way that recalls the services of that reliable child, Samuel Richardson. These

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village maids, in their various love-affairs, which necessitated a large amount of private correspondence, employed young Hardy as amanuensis. He did not, like his great predecessor, compose their epistles; but he held the pen, and faithfully recorded the inspiration of Love, as it flowed warm from the lips of passionate youth. In this manner, which can be highly recommended to all literary aspirants, and which perhaps has more practical value than the "sedulous ape" method of Stevenson, the almost sexless boy was enabled to look clear-eyed into the very heart of palpitating young womanhood, and to express accurately its most gentle and most stormy emotions; just as the white voice of a choir-child repeats with precision the thrilling notes of religious passion. These early experiences were undoubtedly of the highest value in later years; indeed, as the boy grew a little older, it is probable that the impression deepened. Mr. Hardy is fond of depicting the vague, half-conscious longing of a boy to be near a beautiful woman; every one will remember the contract between Eustacia and her youthful admirer, by which he was to hold her hand for a stipulated number of minutes. Mr. Hardy's women are full of tenderness and full of caprice; and whatever feminine readers may think of them, they are usually irresistible to the masculine mind. It has been said indeed that he is primarily a man's novelist, as Mrs. Ward is perhaps a woman's; he does not represent his women as marvels of intellectual splendor, or in queenly domination over the society in which they move. They are more apt to be the victims of their own affectionate hearts. One female reader, exasperated at this succession of portraits, wrote on the margin of one of Mr. Hardy's novels that she took from a circulating library, "Oh, how I *hate* Thomas Hardy!" This is an interesting gloss, even if we do not add meanly that it bears witness to the truth of the picture. Elfride, Bathsheba, Eustacia, Lady Constantine, Marty South, and Tess are of varied social rank and wealth; but they are all alike in humble prostration before the man they love. Mr. Hardy takes particular pleasure in representing them as swayed by sudden and constantly changing caprices; one has only to recall the charming Bathsheba Everdene, and her various attitudes toward the three men who admire her—Troy, Boldwood, and Gabriel Oak. Mr. Hardy's heroines change their minds oftener than they change their clothes; but in whatever material or mental presentment,

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they never lack attraction. And they all resemble their maker in one respect; at heart every one of them is a Pagan. They vary greatly in constancy and in general strength of character; but it is human passion, and not religion, that is the mainspring of their lives. He has never drawn a truly spiritual woman, like Browning's Pompilia.

His best men, from the moral point of view, are closest to the soil. Gabriel Oak, in "Far From the Madding Crowd," and Venn, in "The Return of the Native," are on the whole his noblest characters. Oak is a shepherd and Venn is a reddleman; their sincerity, charity, and fine sense of honor have never been injured by what is called polite society. And Mr. Hardy, the stingiest author toward his characters, has not entirely withheld reward from these two. Henry Knight and Angel Clare, who have whatever advantages civilization is supposed to give, are certainly not villains; they are men of the loftiest ideals; but if each had been a deliberate, black-hearted villain, he could not have treated the innocent woman who loved him with more ugly cruelty. Compared with Oak and Venn, this precious pair of prigs are seen to have only the righteousness of the scribes and Pharisees; a righteousness that is of little help in the cruel emergencies of life. Along with them must stand Clym Yeobright, another slave to moral theory, who quite naturally ends his days as an itinerant preacher. The real villains in Mr. Hardy's novels, Sergeant Troy, young Dare, and Alec D'Urberville, seem the least natural and the most machine-made of all his characters.

Mr. Hardy's pessimism is a picturesque and splendid contribution to modern fiction. We should be as grateful for it in this field as we are to Schopenhauer in the domain of metaphysics. I am no pessimist myself, but I had rather read Schopenhauer than all the rest of the philosophers put together, Plato alone excepted. The pessimism of Mr. Hardy resembles that of Schopenhauer in being absolutely thorough and absolutely candid; it makes the world as darkly superb and as terribly interesting as a Greek drama. It is wholly worth while to get this point of view; and if in practical life one does not really believe in it, it is capable of yielding much pleasure. After finishing one of Mr. Hardy's novels, one has all the delight of waking from an impressive but horrible dream, and feeling through the dissolving vision the real friendliness of the good old earth. It is like com-

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ing home from an adequate performance of "King Lear," which we would not have missed for anything. There are so many make-believe pessimists, so many whose pessimism is a sham and a pose, which will not stand for a moment in a real crisis, that we cannot withhold admiration for such pessimism as Mr. Hardy's, which is fundamental and sincere. To him the Christian religion and what we call the grace of God have not the slightest shade of meaning; he is as absolute a Pagan as though he had written four thousand years before Christ. This is something almost refreshing, because it is so entirely different from the hypocrisy and cant, the pretence of pessimism, so familiar to us in the works of modern writers; and so inconsistent with their daily life. Mr. Hardy's pessimism is the one deep-seated conviction of his whole intellectual process.

I once saw a print of a cartoon drawn by a contemporary Dresden artist, Herr Sascha Schneider. It was called "The Helplessness of Man against Destiny." We see a quite naked man, standing with his back to us; his head is bowed in hopeless resignation; heavy manacles are about his wrists, to which chains are attached, that lead to some fastening in the ground. Directly before him, with hideous hands, that now almost entirely surround the little circle where he stands in dejection, crawls flatly toward him a prodigious, shapeless monster, with his horrid narrow eyes fixed on his defenceless human prey. And the man is so conscious of his tether, that even in the very presence of the unspeakably awful object, *the chains hang loose!* He may have tried them once, but he has since given up. The monster is Destiny; and the real meaning of the picture is seen in the eyes, nose, and mouth of the loathsome beast. There is not only no sympathy and no intelligence there; there is an expression far more terrible than the evident lust to devour; there is plainly the *sense of humor* shown on this hideous face. The contrast between the limitless strength of the monster and the utter weakness of the man, flavors the stupidity of Destiny with the zest of humor.

Now this is a correct picture of life as Mr. Hardy sees it. His God is a kind of insane child, who cackles foolishly as he destroys the most precious objects. "The President of the Immortals had finished his sport with Tess." Some years ago I met a man entirely blind. He said that early in life he had lost the sight of one eye by an accident; and that years later, as he held a little

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child on his lap, the infant, in rare good humor, playfully poked the point of a pair of scissors into the other, thus destroying his sight forever. So long an interval had elapsed since this second and final catastrophe, that the man spoke of it without the slightest excitement or resentment. Now the child with the scissors might well represent Hardy's conception of God. Destiny is whimsical, rather than definitely malicious; for Destiny has not sufficient intelligence even to be systematically bad. We smile at Caliban's natural theology, as he composes his treatise on Setebos; but his God is the same who disposes of man's proposals in the stories of our novelist.

> "In which feat, if his leg snapped, brittle clay,
> And he lay stupid-like,—why, I should laugh;
> And if he, spying me, should fall to weep,
> Beseech me to be good, repair his wrong,
> Bid his poor leg smart less or grow again,—
> Well, as the chance were, this might take or else
> Not take my fancy. . . .
> 'Thinketh, such shows nor right nor wrong in Him,
> Nor kind, nor cruel: He is strong and Lord."

Mr. Hardy believes that morally, men and women are immensely superior to God; for all the good qualities that we attribute to Him in prayer are human, not divine. He in his loneliness is totally devoid of the sense of right and wrong, and knows neither justice nor mercy.

Mr. Hardy's pessimism is not in the least personal, nor has it risen from any sorrow or disappointment in his own life. It is both philosophic and temperamental. He cannot see nature in any other way. To venture a guess, I think his pessimism is mainly caused by his deep, manly tenderness for all forms of human and animal life and by an almost abnormal sympathy. His intense love for bird and beast is well known; many a stray cat and hurt dog have found in him a protector and a refuge. He firmly believes that the sport of shooting is wicked, and he has repeatedly joined in practical measures to waken the public conscience on this subject. As a spectator of human history, he sees life as a vast tragedy, with men and women emerging from nothingness, suffering acute physical and mental sorrow and then passing into nothingness again. To his sympathetic mind, the creed of optimism is a ribald insult to the pain of humanity and devout piety merely absurd. To hear these suffering men and

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women utter prayers of devotion and sing hymns of adoration to the Power whence comes all their anguish is to him a veritable abdication of reason and common sense. God simply does not deserve it, and he for one will have the courage to say so. He will not stand by and see humanity submit so tamely to so heartless a tyrant. For, although Mr. Hardy is a pessimist, he has not the least tincture of cynicism. If one analyzes his novels carefully one will see that he seldom shows scorn for his characters; his contempt is exclusively devoted to God. Sometimes the evil fate that his characters suffer is caused by the very composition of their mind, as is seen in "A Pair of Blue Eyes"; again it is no positive human agency, but rather an Æschylean conception of hidden forces, as in "The Return of the Native"; but in neither case is humanity to blame.

This pessimism has one curious effect that adds greatly to the reader's interest when he takes up an hitherto unread novel by our author. The majority of works of fiction end happily; indeed, many are so badly written that any ending cannot be considered unfortunate. But with most novelists we have a sense of security. We know that, no matter what difficulties the hero and heroine may encounter, the unseen hand of their maker will guide them eventually to paths of pleasantness and peace. Mr. Hardy inspires no such confidence.

However dark may be his conception of life, Mr. Hardy's sense of humor is unexcelled by his contemporaries in its subtlety of feeling and charm of expression. His rustics, who have long received and deserved the epithet "Shakespearian," arouse in every reader harmless and wholesome delight. The shadow of the tragedy lifts in these wonderful pages, for Mr. Hardy's laughter reminds one of what Carlyle said of Shakespeare's: it is like sunshine on the deep sea. The childlike sincerity of these shepherd farmers, the candor of their repartee and their appraisal of gentle folk are as irresistible as their patience and equable temper. Every one in the community seems to find his proper mental and moral level. And their infrequent fits of irritation are as pleasant as their more solemn moods. We can all sympathize (I hope) with the despair of Joseph Poorgrass: "I was sitting at home looking for Ephesians and says I to myself, 'Tis nothing but Corinthians and Thessalonians in this danged Testament!"

WILLIAM LYON PHELPS.

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STATES WITH IDEAS OF THEIR OWN.

BY PHILIP LORING ALLEN.

THOSE who advocate increased centralization of power and function in the Federal Government necessarily have but scant respect for the differences of policies among the several States. These differences have been striking, always vexatious and often ridiculous. In many departments business would manifestly be facilitated and rights safeguarded if such differences did not exist. The centralizationist attributes most of them to ignorance, to prejudices, as to improper motives. In his mind, they could all be swept away with no loss that could for a moment be set against the gain. His projects actually pending are, no doubt, scrupulously confined to those fields in which the constitutional power of the Federal Government is unquestioned. Sometimes it is argued, as in the case of certain of the powers exercised under the interstate commerce clause of the Constitution, that a new extension of Federal authority is really for the benefit of the States themselves, protecting the good States against the machinations of the bad States. Sometimes it is argued that certain important things will not be done at all unless the Federal Government does them. But it is obvious that if the process of extension continues, whether by constitutional amendment or by interpretation, Federal functions must in time impinge directly upon State functions. Uniformity is one of the great objects of centralization and uniformity can thus be obtained only by supplanting conflicting State laws by a single Federal statute. It is, therefore, fair to consider State policies and systems and their claims to be continued in force, irrespective of whether in any particular instance there is any definite project of National control.

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Dr. Crothers, in one of his whimsical essays, has suggested a contrast between the British House of Lords which

> ". . . throughout the War
> Did nothing in particular
> And did it very well,"

and a Western Legislature which did a large number of extremely important things and did them all very badly. The warmest supporter of States' rights is often forced to adopt an apologetic tone when talking of State legislation in the mass. If the national Congress is sometimes visionary, inept and erratic, the State Legislatures are the scenes of constant exhibitions of these qualities. Crazy notions appear and disappear. Constituencies are treated to ebullitions of humor in respect to matters where humor is out of place. "Freak bills" are regular features of the legislative calendars. A bill in New Jersey recently proposed a license tax on whiskers, one in Nebraska a ten-per-cent. income tax on bachelors, one in Minnesota made it a crime for a farmer not to practise rotation of crops, one in Iowa required all eggs to be stamped with the date when they were laid, one in Missouri prohibited "treating" in such sweeping terms that the purchase of ice-cream for a young girl by her beau would have been illegal under its provisions. Of course such fantastic bills usually fail, but a surprising number of them have got on the statute-books in the past. Kentucky, for instance, has made it a felony to trespass on a ginseng garden. Georgia, doubtless in memory of many bucolic swindles, imposes a tax of twenty-five dollars in each county on peddlers of patent churns and patent fences. The forty-five States exhibit as many crotchets as so many headstrong, opinionated individuals.

How these come into being is illustrated by the many different ways in which an entirely new subject for legislative action can be regarded. The popularity of the automobile brought such a subject before the State and local lawmaking bodies generally some ten years ago. Thirty-six States have passed automobile laws since then. Not only are no two of these statutes exactly alike, but no one of them copies the essential feature of the law of the country from which most of our successful horseless vehicles were at first imported. The idea of the French law was, and is, to impose no specific restriction on speed or power, but to hold the driver and owner to the strictest ac-

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countability for all damage. All the American States, however, have put their trust in speed limits. These speed limits themselves are not uniform. A driver may be arrested in New Jersey for running at a speed of thirty miles an hour; in Alabama more than eight miles an hour. For the rest some States license both car and chauffeur, some only the car, while at least one has legislated on the subject without licensing either. Some States permit the passage of local regulations, some prohibit these. Some admit no cars owned by non-residents to be operated in the State until they have been registered there. Some are hospitable indefinitely to cars which have been properly registered in another State. Delaware extends this courtesy for only forty-eight hours, after which the non-resident motorist must register his car or leave the State. A motor bicycle is an automobile in Indiana, while a traction engine is not; both are automobiles in New Jersey, neither in New York—a state of affairs which recalls the railway conductor's famous decision that, "Cats is dogs and rabbits is dogs, but turtles is insecks."

Ideas in automobile regulation have been copied to some extent. For example: Minnesota having required all gasoline machines to use "mufflers" within the limits of cities and villages, Vermont inserted a corresponding provision in a general law passed the next year, and Oregon and Washington did the same the year after. There is one facetious clause, that of Kansas confirming "the prerogative of any political chauffeur to run an automobilous band-wagon at any rate he sees fit compatible with the safety of the occupants thereof . . . provided that whenever a mangled and bleeding political corpse implores for mercy the driver of the vehicle shall, in accordance with the provisions of this bill, 'throw out the life-line.'" Yet the laws, on the whole, are characterized by a spirit of evident fairness. "Seldom," says the Law Committee of the Automobile Club of America, "do we find evidence of hostility carried to excess in any of the legislative enactments."

Below all such unnecessary or meaningless inconsistencies there remains a stratum of individual State policies which are not the result of mere caprice nor lack of information nor unbalanced reasoning, but of genuine conviction. The States differ constantly upon questions which have been for generations the staples of debating societies. A simple instance is the question of capital

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punishment. Every schoolboy and presumably every legislator is familiar with the arguments pro and con. Yet the States continue to be divided. As to liquor laws, there has never been any sort of uniformity. The highest tide of prohibition sentiment has never reached great areas of license territory, while even the extreme of reaction left three commonwealths under State-wide prohibition.

Nor are such diversities of opinion less manifest in those departments of legislation which are rather the concern of experts. There is, for example, the question of corporation laws. It is not disputed that certain of the States have entered into a discreditable competition for corporation business, making their laws intentionally lax for this purpose. But even the States which are fully exonerated from any such charge are not at one in method. This is illustrated by two recent comparative studies of the State incorporation laws. The Massachusetts law of 1903 is one of the most celebrated of these statutes. "A conspicuous point of the Massachusetts law," wrote Edward Dana Durand, in the "Yale Review" for February, 1904, "is the absence of any requirement that property or services for which stock is issued shall actually, or at least in the honest judgment of the directors, be worth the par value of the stock given for them. This is almost universally prescribed in the laws of the other States." On the other hand, Don E. Mowry, writing in the "Central Law Journal," pointed another contrast. Massachusetts, he said, was one of the few States in which "five men cannot sit around a table, put one dollar in the centre, organize a corporation calling for a million dollars' worth of capital, repocket the dollar, and go home after sending a certificate of incorporation to the Secretary of State with a million-dollar enterprise ready to launch."

In other words, the State which imposed the closest restrictions in one particular was least strict in another. Massachusetts proceeded on a theory of her own as to the special points on which the stockholders and the public needed to be safeguarded.

Another example of divergent State policies is afforded by the various railway commissions. Some of these have always possessed the rate-making power, some never. The "advisory" commissions have existed beside the "regulative" commissions practically ever since the idea of State control was first applied,

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and neither type has yet proved so conspicuously successful that the other has been generally abandoned for it. Indeed, of the two State Commissions which have recently been instanced as notable for practical and intelligent service to the people of their respective States the Wisconsin commission is classed as "regulative" and the Massachusetts as "advisory," and there is no indication that either State would be better suited by a commission of a different type.

Systems of direct nominations of candidates for office have not been on trial so long, yet here again there are two opposite theories embodied in the various State laws. When once the choice of party nominees is taken away from a convention and lodged in the party membership as a whole the definition of party membership becomes highly important. Who shall be allowed to vote in the Republican primaries and who in the Democratic? How shall unscrupulous members of one party be prevented from packing the other's caucuses and thus having weak men put up against their own candidates? There are two answers to this question. The States of one group require the voter to declare publicly on primary day or before that he belongs to a certain party if he desires to assist in making nominations of that party. The States of another group have the "open" primary. The voter uses a secret ballot or ballots containing the names of all candidates for the nominations of all parties for all offices. He may mark where he pleases, but he may not select one of the Republican aspirants for Governor and one of the Democrats for Mayor, for example. Virtually he participates in one party caucus, though it remains a secret which one he has entered. The "open" and "closed" primaries continue to exist even in adjacent States without convincing the advocates of the one that the other is preferable.

And still other examples of inconsistent legislation might be multiplied. About a dozen States manage all their charitable and correctional institutions through a centralized board of control, the others deal separately with the various institutions. Ballot laws are drafted on different theories. On criminal laws many States have characteristic ideas of their own, Indiana's new statute imposing life imprisonment for a third conviction for felony being one of the latest examples. New York has made all prison sentences indeterminate. Lawyers in their own field

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come no nearer to uniformity than laymen in theirs. About half of the State courts use code procedure and half common-law procedure.

It is, of course, evident that when it supplants State authority with reference to any of the subjects where there are alternative policies the Federal Government must make the choice of one, and the other, however satisfactory to local sentiment, goes out of existence. This objection does not apply to the adoption of a uniform policy by the voluntary action of the several States. In this connection, therefore, the organized efforts toward such uniformity of legislation are worth examining. So many associations interested in particular subjects have drafted bills to be urged upon the Legislatures, that a State so disposed could supply itself with a reasonably complete outfit of "model" laws. The greater number of these are either based on the statute of some particular State or have been adopted by some of the Legislatures after having been originally drafted or approved by an unofficial body. But no one statute-book contains to-day any considerable proportion of these "model" laws. And no individual or organized body, however conspicuous or influential, has ever persuaded our forty-six State Legislatures to take identical action on any subject, however simple.

It is an entirely non-political body, the Association of Audubon Societies, which has, apparently, come nearest to performing this feat. Its law for the protection of non-game birds is in force to-day over a larger stretch of American territory than any comparable piece of statute law, not a Federal enactment. In the crusade for its passage humanitarian arguments have been coupled with economic, for the farmers lose four-fifths of a billion dollars a year through insect depredations. Among the friends of the model law are included leading men and women of every community, while the opponents, plume-hunters and pot-hunters, are contemptible in numbers and influence. Yet years of effort have not brought the law into force everywhere. When the Legislatures of 1907 adjourned, three Southern States, five Western States and three Territories had failed to join in the movement for bird protection.

The fight for pure food is one in which the national Government and the States might be expected to join and supplement each other's efforts. The national law, passed after seventeen

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years of agitation, is naturally the pattern of State enactments. Within two years after its passage eleven States had amended their own laws so as to bring them into conformity with the Federal statute, while seven others which had previously made no effort at food control had passed laws on the Federal model. All these had copied, among other things, the Federal policy of exempting the dealer from prosecution in case he holds the manufacturer's guarantee of the purity of his goods expressed in the now familiar label. But even this group of new laws carries the States only a third of the way toward effective uniformity of policy. Already, indeed, there have been conflicts between Federal and State authorities on the question of the status of particular products.

In 1906 forty States sent delegates to a divorce Congress called at the request of the State of Pennsylvania. This Congress marked, perhaps, the most conspicuous and influential attempt of recent years to arouse public sentiment in favor of uniformity respecting an important branch of legislation. It would scarcely be possible for commonwealths to differ more on any subject than they do in their attitude toward divorce. Over twenty different causes are recognized in one State or another, while one State, South Carolina, believes in granting no absolute divorces at all. It showed the delegates' clear perception of the difficulties in the way of obliterating distinctive State policies that the Congress of 1906 did not even attempt to unify causes for divorce. The late Dean Huffcut of the Cornell University Law School, one of New York's delegates, wrote of its recommendation: "The proposed statute does not attempt to secure uniformity of causes. It was from the outset recognized that such an attempt would fail and thereby imperil the passage of the jurisdictional and procedural portions of the statute, and these, after all, are of first importance." The first resolution of the Congress stated "that no Federal divorce law is feasible and that all efforts to secure a constitutional amendment—a necessary prerequisite—would be futile." It did urge the Legislatures to copy the Massachusetts law that "if an inhabitant of this commonwealth goes into another State or country to obtain a divorce for a cause which occurred here while the parties resided here, or for a cause which would not authorize a divorce by the laws of this commonwealth, a divorce so obtained shall be of no force and effect in this com-

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monwealth." The "uniform divorce law" embodying this and a code of divorce procedure was adopted the following year by Delaware and New Jersey and went through one House of the Pennsylvania Legislature.

For this law there was obtained, moreover, in August, 1907, the sanction of the only permanent body devoted solely to the cause of unification of State legislation, the Conference of Commissioners on Uniform State Laws. This conference has met annually for the last eighteen years in connection with the sessions of the American Bar Association, but the commissioners take part in an official capacity, being appointed by the Governors of the several States. At the last issue of the conference report thirty-seven States were thus represented by from one to ten commissioners each, there being no more uniformity in the States' efforts toward uniformity than in other phases of their polity. In the deliberations of these conferences we have another proof of how gradual and how tactful all effective progress by voluntary action must be. The commissioners have never yet taken up what could fairly be called a controversial bill, the laws recommended by them being mainly business measures. Of these its negotiable instruments law has been passed by thirty-one States, its warehouse receipts law by seven.

That altogether worthy efforts like those just described have met with only such moderate success is adduced as an additional reason why uniformity in certain important departments should be secured by summary Federal action. It is always possible and sometimes fair to attribute the existing confusion and discrepancy to causes that are either discreditable or negligible. Yet there is almost always an alternative explanation. Sometimes, as has been pointed out, there are two or more independent theories embodied in the statutes, sometimes the material needs of different localities demand different treatment. Even in those cases where an admittedly good law has failed to be adopted in all the States, despite an adequate presentation of its case, it may often be true that the worthy statute had spread quite as far as the effective public sentiment on which its successful enforcement would have to depend. Such an authority as Paul S. Reinsch, in "American Legislation," takes the view that "the statute law of the newer States has heretofore suffered a good deal from the indiscriminate copying of statutes of older communities."

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It so happens that the attitude of the centralizationists toward the State Governments in general has changed of late, though without becoming any the more respectful. Where we once heard chiefly of the States' feebleness and indifference to their own best interests, there is more said and written just now about their over-zealousness. Certainly the States themselves are quite unwilling to admit any advantage in point of efficiency on the side of the Federal Government. There may be instanced the resolution passed on October 11th, 1907, by a convention of State railroad commissioners, most of them members of the party in power at Washington, declaring that the States had taken the lead in every successful movement for the equalization of transportation rates. "There have been many general rate reductions in different States," said the commissioners, "and as far as we know these have all been brought about by affirmative action of the State authorities. So far as we are advised, we know of no general reduction due to any action by the Federal authorities."

Whether this and similar claims be true or not, there can be no question that the States are giving more attention than ever before to the art of lawmaking. Comparative legislation is being studied. The various Legislatures, notably those of New York and Wisconsin, through their library bureaus, are making it their business, before passing important new legislation, to find out the experience of their neighbors with similar questions. This means, even in the most superficial aspect, that State legislation is likely to become progressively less deserving of the ridicule and contempt it has so often received in the past. No far-reaching national policy, but only the simplest mechanism of friendly co-operation, is needed to eliminate many of the needless and annoying differences in State policy. That we are getting this co-operation in larger measure is one of the answers which the States have made to their critics. Of all possible ways of securing uniform legislation, surely the best is the voluntary copying of those statutory details which have worked well in the States of their origin and the dropping of those which have worked badly. To advocate more than that is to advocate the destruction of laws and policies which have been found suited to the needs of some localities, but not all.

PHILIP LORING ALLEN.

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THE NEW IRELAND.—XI.

THE CHURCH.

BY SYDNEY BROOKS.

Of all the questions that confront the inquirer into the realities of Irish life and conditions the most delicate and perplexing are those propounded by the Church. An Englishman especially has to burrow his way through whole mountains of prejudice and misconception before he can win to an even moderately unhampered view of the character, work and influence of the Irish priesthood. In England itself he has hardly a single chance of learning the truth. Somewhere in the back of the average Englishman's mind is a confused idea that practically all Irish priests are on the verge of illiteracy. He is told that the education they receive at Maynooth is of the most cramping and bigoted character and that it turns them out narrow, intolerant, drunk with power and unscrupulous in using it. He has been fed ever since he can remember on the preposterous fallacy that Home Rule means Rome Rule. He has heard of the oppressions practised by the priests, of how they wring from the poor the moneys that enable them to build magnificent chapels in the midst of a neighborhood of hovels, of their niggardliness in charity, of their exactions in the way of marriage and burial fees, of their lives of sloth and ease. He is inclined to put down three-fourths of Irish ills to the Irish priests. He regards them as the most dangerous kind of agitators. He ascribes to them the lack of moral fibre that is often charged against the Irish people. He is convinced that they and their power are the greatest of all obstacles to industrialism. He profoundly dislikes and distrusts their whole organization. He hears that no priest in Ireland will ever condescend to publish a statement of accounts, that the Catholic

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laity are excluded from even the smallest share in the government of their church, and that, however praiseworthy individual priests may be, and however much credit they may justly claim for the miracle of Irish chastity, the priesthood, as a whole, is seditious, anti-economic and a blight upon the moral stamina of the people.

Before considering this indictment in detail, I should like to give a rough sketch of three priests whom I met in one of the northern counties. The first was Father M., the curate of a way-side village, a bustling, spectacled little man, some forty years old. I lay in wait for him at a railway station whither he was due to arrive from Dublin. What had taken him to Dublin? The very last thing that would have taken an English clergyman to London. Father M. had gone to Dublin to head a deputation from his district that was waiting upon the Chief Secretary for the purely secular object of procuring a government grant for a local railway. It was he who introduced the deputation and acted as its spokesman. All the details of the proposition, the engineering difficulties of the projected line, the route it should take, the cost of its construction, the resources of the districts it would tap, the objections brought against it by rival roads—all this the priest had at his finger-ends. He unfolded the whole scheme to me as we sat in the parlor of the only really comfortable rural inn I came across in Ireland; it was not—need I add?—kept by an Irishman. And then the talk went on to other things, to books and education and village banks and co-operative creameries. Father M. showed me a few volumes he had picked up that morning at the second-hand bookstores by the Dublin quays. He was, he admitted, somewhat of a bookworm. He had a library of nearly three thousand volumes. The reading habit had clung to him since the days of his professorship in an Irish Catholic college. He had even tried to popularize it among his people by allowing them to take out volumes from his shelves, but the experiment had not answered. Was it, I asked, mainly a theological library? By no means. The theological books reposed dustfully on the upper shelf; novels, *belles-lettres,* the classics, Darwin, Huxley and Spencer mingled below. But his great hobby was the co-operative movement. There was very little about agriculture that he did not appear to know—"and why shouldn't I, being a peasant's son myself?" He had started a village bank; he had started a co-operative creamery; and both were flourishing institutions.

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Goodness and practicality beamed from behind the little man's spectacles. That he had not the polish of the drawing-room was true enough, but in competency, in genuineness, in enthusiasm and in sound common sense he would have taken a place anywhere. As he sped homeward on his bicycle, I had an immense conviction that his people were in good hands.

And then there was Father M.'s immediate superior, the parish priest, a gray-haired, hearty, all-knowing veteran upon whom I unceremoniously stumbled while waiting his curate's return. His door was ajar, and a voice from the depths of the house bade me come in when I knocked. I found him sitting in a bare, disorderly room, a glass of water and a loaf of bread standing on the table amid a litter of books and papers. He held forth for a while on land and farming as though he were one of the Estates Commissioners. Then he passed on to travelling and told me how he had just returned from a tour through Italy. "Rubbing up your classics, Father?" I asked him. He hoped in reply that they did not need much rubbing up, and I quickly found that they did not. He was strong on temperance, one of the leaders in the campaign which the Church has somewhat tardily organized against the most pervasive of Irish failings. "His own," as they say in Ireland, had nearly all taken and kept the pledge, and the local publican was hard put to it to make both ends meet. Remember, we were six miles from any railroad, in a district not indeed very poor, but quite remarkably isolated. And here was this priest, a real father to his people, reading the classics and fighting drunkenness. He came down to the roadway with me in the pleasant Irish fashion and chatted for a while with my driver, criticising his horse and passing his hands down its legs with expert familiarity—a most adequate man, in touch with every interest of his people. In a near-by town I found a day or two later another type of priest, or rather a variation on the Father M. type. He was, I should judge, about forty-five years old, a zealous antiquarian who had written many books and pamphlets on the round towers, old crosses, ruined abbeys and castles of the neighborhood. But that was merely a side issue in his busy, practical life. He was a firm believer and an untiring worker in the cause of industrial betterment. The Department of Agriculture, as I have had occasion to explain, cooperates with local committees appointed by the county councils

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throughout the country. This priest served on his local committee with assiduity and intelligence; I believe he practically ran it. But he was far from confining himself to these more or less official duties. Any project of material improvement that stood a reasonable chance of success had his active support. When I visited him he had just organized and completed what amounted almost to a house-to-house canvass of his town for the purpose of raising $50,000 to start a small linen-weaving mill, and of that sum $30,000 had already been obtained. To encounter three such priests within the space of a week—alert, level-headed, well-informed, intensely practical men, each trying in his own way to leave the world a little better than he found it—would have forced the most unmitigated Englishman to revise some of his preconceptions.

I do not say that these three priests were typical of the whole body, and even if they were, it might still be necessary to insist that an organization is something very different from the sum of the individuals who compose it. One comes across, as a matter of fact, many priests in Ireland who make a decidedly less pleasing impression, who are bullies, agitators, not over-scrupulous and unwholesomely materialized. But, taking them as a whole, they are a remarkable set of men whose chief shortcoming, in my opinion, is not so much that they abuse their unrivalled authority as that they do not always direct it to the best ends. The sons, in the main, of peasants, small farmers and petty traders, educated in a seminary that is exclusively theological, it is inevitable that their horizon should be narrow, their stock of knowledge and of culture inadequate to the position of variegated and almost undisputed power in which they find themselves placed, and that their manners and style of living should sometimes fail to set an example of refinement and finish. But they are almost invariably gentlemen in the essentials, if not in the accessories, of character and conduct; they lead the fullest and most human of lives; I have rarely encountered any men in whom the social and hospitable instincts were more developed; and in their relations with women their record is absolutely without stain. "They are no anchorites," an Irish lady has written, "no austere possessors of a spiritual joy far removed from human sources. They are men and brothers to their flocks; they are open-air persons; they love the gayeties of the country and the people; they dine

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out; they are leading—one had almost said *the* leading—figures at weddings and christenings; they are sportsmen; they love a race-meeting or a game of cards; they enjoy a good dinner and a glass of punch to follow. Yet it is in the midst of his social, and one may say material enjoyments, that the high vocation of the Irish priest is, to my mind, so manifest. I have looked on at and taken part in hundreds of card-games where priests were among the players. In all my experience, I cannot recall one instance in which a priest was greedy, ill-tempered or anything but a gentleman and a sportsman, winning and losing with cheerful equanimity, and displaying the utmost patience with other players less well-mannered and good-hearted than himself. I have seen them on the race-courses, dispensing their wonderful hospitality, spreading geniality as they went about among friends and neighbors, "putting their bit" in a sweepstake, and enjoying their losing or winning with the same cheerful equanimity as at the card-table.

The priest in Ireland has not to struggle for power; it comes to him as a birth-right. Not only is all education in his hands, not only have the Penal Laws bequeathed to him a distinctive sanctity, not only is his office regarded with a reverence not altogether free from superstition, but his domination over the secular affairs and interests of his people is such as even the Spain of three hundred years ago scarcely excelled. What is it, indeed, that the priest is not? Spiritual shepherd, teacher, politician, land agent, family lawyer, man of affairs—from the cradle to the grave he touches the realities of Irish life at every conceivable point. On such a matter the impressions of a casual visitor must necessarily lack that intimacy of acquaintance which can alone give them value. I fall back on the ampler knowledge, the wide and sympathetic elucidations, of one who, though a foreigner, has made a profound study of Irish problems and has also the advantage of being a Catholic. M. Paul Dubois, in his "*L'Irelande Contemporaine*," is nowhere happier than in his analysis of the relations between priests and people:

"Under Elizabeth and Cromwell, under the Penal Laws, the priest suffered with the people. He remained faithful to them unto death and martyrdom. Thus were friendship and union sealed between priest and people. The priest gained forever the gratitude and veneration of the people; he became their guide, their friend, their protector, and won

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that title which he still bears, *Sagart a rúin*, the beloved priest. Nothing could be more touching to see than this attachment which still exists, this respect, this confidence, this intimacy between the priest and his parishioners. . . . He seems to be a king in his kingdom, affable, courteous, tolerant with non-Catholics, familiar with his flock; above all, 'popular.' He is in truth the father of his people, and no doubt a father who is sufficiently authoritative. He is the arbiter of their quarrels, the confidant of their secrets. To him they turn for advice whether in affairs of the heart or of the pocket. In return the people are ready to do him any service and to render him any homage. . . . There is no stiff haughtiness, no wall of stone separating them from their flock; they make themselves loved by their good grace and their ruggedness at need. . . . The Irish priest is not merely the spiritual shepherd, he is the guide and counsellor in temporal affairs. The facts of history have made him a leader, and often the sole leader, of the people."

But to all this there is another and less pleasing side. It has been stated with pungent illumination by "Pat" in his "Economics for Irishmen"; and I cannot do better than quote what he says:

"The world," he writes, "has hardly a more beautiful example of Faith than the gray patrician of fifty generations bowed for the blessing of the new-made curate, who may have started from the stable; but when that curate has 'got his parish,' expands his exclusive judgment on religion into his exclusive judgment on everything else, lays down the law on all things for patrician and plebeian alike, dictates his 'policy' to the statesman, his fees to the doctor, his voting to the citizen, their 'opinions' to the public, and so turns his sacred privilege into a secular weapon; then the highest things we know of are dragged into the dirt, and character, economic and otherwise, is sunk under a confusion of standards that tend to make the individual a machine rather than a man, with Heaven itself pressed into the process of human demoralization. That is what we have to-day in Ireland, at least in a measure large enough to assure our economic decay, and so helpless is 'the nation' against it that useful men, good Catholics, can have their dismissal dictated by the priest, and be driven out of Ireland for nothing more than uttering their opinions on lay matters peculiarly their own, admittedly in accordance with the liberty defined to them by their Faith."

And again:

"Nothing is more firmly fixed in the minds of many shopkeepers and their peasant customers than that the prosperity or destruction of their business is at the will of the priest, and I know numerous families that have been impoverished in this way, while others have risen from misery to wealth through the priest's partiality. In many places it is

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enough to know simply that the priest does not wish the people to go to a certain shop. The wish becomes generally known in some way, and then down goes the shop, often the shop of a good fellow, while a pious ruffian prospers under clerical approval on the other side of the street. While it is accepted as if an article of Faith that the will of the priest means success or ruin to a man's business, how can we have the freedom that produces character or the character that produces economic progress?"

These are the views of an Irishman and a Catholic. I find them substantially endorsed in a letter I received a few months ago from an Irish Protestant, a singularly liberal and enlightened statesman, who has made many effective contributions to Irish well-being.

"Sacerdotalism," he writes, "is my bugbear, the one factor in the case that makes me sometimes despair. It shows no sign of weakening; on the contrary, I think it gathers strength. But it cannot last forever. The people hate and resent it; and though but few Irish return from the United States to settle in Ireland, American modes of thought must percolate into Ireland. My dread is that it will last long enough to neutralize the good effects of peasant proprietorship and other reforms; and that the influence of the priest in the legitimate field of faith and morals will perish along with his power in purely secular matters. The rebound into irreligion in a people such as the Irish would be very serious. It is a vast pity that we have in Ireland no Roman Catholic in a position analogous to that of the Duke of Norfolk in England, one who could represent at Rome the fact—I am sure it is a fact—that a revolt against religion will surely take place if the interference of the Hierarchy and the Priest in temporal affairs is not checked. . . . In what I have said about sacerdotalism do not misread me as applying it to all Bishops and Priests. I believe the majority are good though ignorant men, anxious for the welfare of the country and concerned only for the spiritual and moral condition of their flocks. But the militant temporal Bishops and Priests dominate the majority, and they have all the strings of the money-bags and of the press in their hands. If the Priests would preach and preach and keep on preaching (1) love of truth, (2) sense of duty, (3) the necessity of nourishing the body as well as the soul, (4) that stewed tea and white bread are poison to children, (5) the dignity of labor, and (6) cleanliness—Ireland would be a very different country in ten years."

From the standpoint of the Church itself, the Ireland of to-day must be nearly the ideal country. In the last sixty years, while the Catholic population has decreased by twenty-seven per cent., the number of priests, monks and nuns has risen 137 per cent. The Church thrives as the people dwindle, and its authority over

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those who stay seems to grow year by year more intensive and meticulous. The Catholic who puts his Church before any mundane interest can only, I suppose, rejoice at this; can only feel that Ireland is fulfilling the highest national ideal as convents and monasteries multiply, as her missionaries scatter over the world, and as the temper of her people yields itself more and more to priestly guidance. But an onlooker must needs stand appalled at the drain of this huge establishment upon the economic vitality of the people. He sees towering edifices rising in the midst of hovels and he wonders where the money came from. He reads in the papers of an endless flow of bequests into the ecclesiastical exchequer, and he asks where the money goes. He hears from manufacturers of the hindrances placed in their way by the Church, with her restrictions and demands, and he is prompted to inquire whether Ireland is not a battle-ground of the age-long conflict between Catholicism and industrialism. He finds in the rural parts a people barely emerging from the anthropomorphic phases of belief and the twilight of superstition—shuttlecocked between terror and greed and penetrated with the listlessness of fatalism—and he is irresistibly driven to speculate whether for some of their shortcomings certain features of Irish Catholicism and of the policy of the Irish priesthood may not be at least as much responsible as the British Government itself. He sees the Hierarchy warring on and suppressing journals that refuse to subordinate to its interests whatever aspirations they may cherish for a united and regenerated Ireland, and he asks how freedom of thought can exist in such conditions. He regards the inordinate drink bill of the Irish people and wonders whither the spirit of Father Mathew has fled. He cross-examines the emigrants at Queenstown and begins to suspect that the policy of dragooning the people in their homes and diversions, if it has helped to make the Irish the most continent of nations in the single matter of sex, has also done much to blast the innocent pleasures and gayety of the countryside and to invest the prospect of escape into life with a new attractiveness; and the census figures of the United States and of England are there to confirm his forebodings that once free from the special atmosphere of Ireland and released from the confinement of a penitential code, the faith of but too many of the Irish emigrants will prove a fragile barrier against the seductions of freedom and the onsweep

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of an unaccustomed commercialism. The great and continuous defection from Catholicism of the Irish in America is a phenomenon at least as much explicable by the environment they have left as by that they have entered.

Nor are the inquirer's doubts resolved when he looks into the internal economy of the Church and learns to his stupefaction that no priest in Ireland renders any account of the money that passes into his hands and that the laity are inflexibly excluded from even the smallest share of Church administration. Yet the question still arises to plague him whether it is the people who do most to influence the priests or the priests the people. For the people have still in a sense the power of the purse; and an unpopular priest or one who tilts against local sentiment may find himself reminded of the error of his ways by a falling off in marriage and burial fees and in the proceeds of the Easter and Christmas offerings and of the half-yearly "stations" at which he collects his dues in person. It is in some ways an unhealthy system, whichever way the balance of influence may be held to fall. It materializes but too many of the priesthood, and it robs the laity of all real responsibility. In matters where the interests or passions of the people are strongly enlisted the priesthood is often powerless to restrain them; but then the matters in which the interests or passions of the Irish people are strongly enlisted are very few in number. The land, however, is one of them. The Church denounced the Land League and the Plan of Campaign and the crimes and disorders that accompanied them, but its denunciations were swept away in the torrent of popular passion. The priests at this moment are opposed to cattle-driving, but cattle-driving continues just the same. In the crisis that followed Parnell's conviction of adultery, again, the Church and the people came into fierce and bitter conflict, and, though the Church won, it was only after a struggle that for a time tore the country in twain. The Irish Catholic is by no means the most tractable of individuals, and Ultramontanism will never find in Ireland a footing one-half so secure as in Spain or in Austria.

On the other hand, where their emotions or interests are not keenly engaged, the people accept the domination of the priesthood unmurmuringly. Education is a conspicuous case in point. The British Government and the Irish Catholic Church might

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almost seem, indeed, to have entered into a conspiracy for the intellectual enslavement of the Irish people. There is hardly a branch of Irish education in which Protestant England has not shown herself more Catholic than any Catholic Power on earth. Every national schoolmaster in Ireland, thanks to Great Britain, is the creature of the clerical manager, appointed, promoted and dismissed by him at will. Carry this system into the secondary and intermediate schools and higher up into the colleges, and the historical results follow; lay learning, even Catholic lay learning, is banned and boycotted; the teaching congregations swoop down upon and monopolize the whole field of instruction; the pernicious bait of result fees turns education into cramming, and pours thousands of pounds a year into the coffers of unaudited, irresponsible orders; the laity are excluded from Maynooth; mixed education, that great dissolvent of social and sectarian strife, is denounced as treason to the Faith; and the whole guidance, not alone of the beliefs and morals, but of the intellect of the youth of Ireland becomes a priestly, monastic and conventual preserve. To have placed Irish education absolutely under the control of the Irish priesthood is, in my judgment, the gravest of the many crimes and blunders for which British rule in Ireland is responsible. The blind cannot lead the blind, and an inexperienced, uninterested and uncultured priesthood is of all agencies the least fitted to guide the intellectual destinies of a nation. To none of its functions does the Irish priesthood cling so tenaciously as to its hold over the schools; in none is it less willing to admit the co-operation of laymen; and yet with none has it proved itself so little able to deal successfully. I freely grant that the Irish priests are set to work at what is probably the worst educational system in Europe, but no one who has looked into the matter at first hand or who has even been at the trouble to read the Inspectors' reports can doubt that the negligence, indifference and incapacity of the clerical managers have intensified all its defects.

If there were no other argument for Home Rule the state to which Irish education has been reduced by the operations of an arbitrary, anti-national and incompetent Board on the one hand and priestly mismanagement on the other would supply all the arguments that could be needed. It is one more illustration of the paradox that both Englishmen and Irishmen seem incapable of grasping, the paradox that one of the most stalwart pillars of

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the Catholic Church in Ireland is Protestant England. If that were once realized for the fact it unquestionably is, we should not then have Ulster taking up, and Nonconformist England mechanically echoing, the cry that Home Rule means Rome Rule. It is English Rule that means Rome Rule. It is the British trick or policy of ignoring the Catholic laity in Ireland and of dealing over their heads with the Church direct that, as much as anything else, buttresses and perpetuates the temporal power of Irish Catholicism. Home Rule would eventually tear that power to pieces. Is there a country where the people, once masters in their own house, have tolerated indefinitely the domination of the Church in their schools and universities? The enfranchisement of the Irish mind will be, I admit, a process uniquely protracted, incalculably slow. But to doubt its inevitability when once the people are placed in charge of their own destinies is simply to write down all human history a lie. Home Rule, so far from spelling Rome Rule, spells Rome Ruin.

What, then, is the true attitude of the Church towards the master-question of Irish politics? Does the Hierarchy really and sincerely favor an autonomy which sooner or later would infallibly loosen and then destroy ecclesiastical control of popular education? Confronted with the choice between sacrificing its hold over the schools and sacrificing Home Rule, which would it choose? Is the Church in its secret heart Nationalist first and Catholic afterwards, or Catholic first and Nationalist afterwards? Finding in England and the English connection, and the political bargains to which that connection gives rise, an effective and durable bulwark against an educated laity already muttering in revolt, is it genuinely anxious to see the barrier torn down? These are questions that admit at present of no clear and decisive answer. Even to consider them is to find oneself launched on a vast and all but trackless but not necessarily unprofitable ocean of speculation. I think, however, that sooner or later the Irish intelligence will burst its clerical leading-strings and insist on mapping out for itself the lines of its future progress. Movements of discontent, in and out of the Church, are already vaguely discernible. The emancipation of the Irish mind—the most needed of all Irish revolutions—has already begun.

SYDNEY BROOKS.

(To be Concluded.)

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THE TARIFF MAKE-BELIEVE.

BY WOODROW WILSON.

THE wrong settlement of a great public question is no settlement at all. The Payne-Aldrich tariff bill, therefore, which its authors would fain regard as a settlement of the tariff question, is no settlement at all. It is miscellaneously wrong in detail and radically wrong in principle. It disturbs more than it settles, and by its very failure to settle forces the tariff question forward into a new and much more acute stage.

It is so obviously impossible to settle the question satisfactorily in the way these gentlemen have attempted to settle it; it is so evident that men of their mind and with their attitude towards the economic interests of the country can never settle it that thinking men of every kind realize at last that new men and new principles of action must be found. These gentlemen do not know the way and cannot find it. They "revised" the tariff, indeed, but by a method which was a grand make-believe from beginning to end. They may have convinced themselves of the intelligence and integrity of the process, but they have convinced nobody else. The country must now go to the bottom of the matter and obtain what it wants.

It has gone to the bottom of it at some points already, and the process will be carried very far before it is through with it. In the first place, it is the general opinion throughout the country that this particular revision was chiefly pretence, and that it is the first time that we have had tariff legislation of this kind. The McKinley tariff bill and the Dingley tariff bill, whatever may be thought of their wisdom or of their validity as acts of statesmanship, were unquestionably frank and genuine. There was no concealment or make-believe about either their purpose or their character. No doubt many things were accomplished by

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them of which the public knew nothing and was intended to know nothing. Not all the advantages gained by this, that or the other industry from legislation of that kind could be explained to the public without creating inconvenient comment and startling questions that might cut very deep; but that is true of all legislation which is meant to give particular classes of citizens a special economic assistance or advantage. Private favors will inevitably creep in. But no one was deceived. The men who put those measures through had no doubt that they had the support of the country in doing so. They gave the country what they thought opinion would sustain: gave it what they honestly supposed that it wanted. But no one who is capable of assessing opinion now can possibly claim that that is what the men who were behind the Payne-Aldrich legislation did. They knew that they were not giving the country what it wanted, and the more thoughtful and statesmanlike among them deeply regretted that they could not. There was a process almost of haphazard in the construction of the House bill, and mere false leadership and chicanery produced the bill which the Senate substituted for it and which largely prevailed in conference.

The methods by which tariff bills are constructed have now become all too familiar and throw a significant light on the character of the legislation involved. Debate in the Houses has little or nothing to do with it. The process by which such a bill is made is private, not public; because the reasons which underlie many of the rates imposed are private. The stronger faction of the Ways and Means Committee of the House makes up the preliminary bill, with the assistance of "experts" whom it permits the industries most concerned to supply for its guidance. The controlling members of the Committee also determine what amendments, if any, shall be accepted, either from the minority faction of the Committee or from the House itself. It permits itself to be dictated to, if at all, only by the imperative action of a party caucus. The stronger faction of the Finance Committee of the Senate, in like fashion, frames the bill which it intends to substitute for the one sent up from the House. It is often to be found at work on it before any bill reaches it from the popular chamber. The compromise between the two measures is arranged in private conference by conferees drawn from the two committees. What takes place in the committees

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and in the conference is confidential. It is considered impertinent for reporters to inquire. It is admitted to be the business of the manufacturers concerned, but not the business of the public, who are to pay the rates. The debates which the country is invited to hear in the open sessions of the Houses are merely formal. They determine nothing and disclose very little.

It is the policy of silence and secrecy, indeed, with regard to the whole process that makes it absolutely inconsistent with every standard of public duty and political integrity. If the newspapers published and the public read even the debates, empty of significance as they generally are, the entire country would presently realize how flagrant the whole make-believe is. The committees under whose guidance the bills are put through the Houses disclose nothing that is not wrung from them by members who have made investigations of their own and who insist upon having their questions answered; and there are few enough who have the audacity or take the trouble. But here and there a fact is dragged out, and before the encounters of debate are over enough has been brought to the light to make extremely instructive reading. It is devoutly to be wished,—merely to cite examples,—that every voter in the United States had read, or would yet read, the debates in the Senate on the duty on electric carbons,—the carbons used in the arc-lights in all our cities,—and on the duty on razors. Every detail is a commentary on the whole depressing business.

One extraordinary circumstance of the debates in the Senate should receive more than a passing allusion. The Republican party platform had promised that the tariff rates should be revised and that the standard of revision should be the differences between the cost of producing the various articles affected in this country and in the countries with which our manufacturers compete. One of our chief industrial competitors is now Germany, with its extraordinary skill in manufacture and the handicrafts and its formidable sagacity in foreign trade; and the Department of State, in order to enable Congress the more intelligently to fulfil the promises of the party, had, at the suggestion of the President, requested the German Government to furnish it with as full information as possible about the rates of wages paid in the leading industries in that country,—wages being known, of course, to be one of the largest items in the cost of production.

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The German Government of course complied, with its usual courtesy and thoroughness, transmitting an interesting report, each portion of which was properly authenticated and vouched for. The Department of State placed it at the disposal of the Finance Committee of the Senate. But Senators tried in vain to ascertain what it contained. Mr. Aldrich spoke of it contemptuously as "anonymous," which of course it was not, as "unofficial," and even as an impertinent attempt, on the part of the German Government, to influence our tariff legislation. It was only too plain that the contents of the report made the members of the controlling faction of the Finance Committee very uncomfortable indeed. It undoubtedly showed, what independent private inquiries readily enough confirm, that the wages paid to skilled laborers in Germany are practically as great as those paid in the United States, the difference in the cost of living in the two countries being taken into consideration. To have made it public would have been to upset half the arguments for the rates proposed with which the committee had been misinforming the country. It would no doubt have explained, for example, why the skilled grinders of Solingen do not think it worth their while to emigrate to America and oblige almost all razor-makers in other countries to send their blades to them to be ground,—and many another matter left studiously undebated, unexplained, about which Senators had been asking for information. It would have proved that the leaders of the party were deliberately breaking its promise to the country. It was, therefore, thrown into a pigeonhole and disregarded. It was a private document.

In pursuance of the same policy of secrecy and private management, the bill was filled with what those who discovered them were good-natured or cynical enough to call "jokers,"—clauses whose meaning did not lie upon the surface, whose language was meant not to disclose its meaning to the members of the Houses who were to be asked to enact them into law, but only to those by whom the law was to be administered after its enactment. This was one of the uses to which the "experts" were put whom the committees encouraged to advise them. They knew the technical words under which meanings could be hidden, or the apparently harmless words which had a chance to go unnoted or unchallenged. Electric carbons had been taxed at ninety cents per hundred; the new bill taxed them at seventy cents per hun-

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dred *feet*,—an apparent reduction if the word feet went unchallenged. It came very near escaping the attention of the Senate, and did quite escape the attention of the general public, who paid no attention at all to the debates, that the addition of the word feet almost doubled the existing duty.

The hugest practical joke of the whole bill lay in the so-called maximum and minimum clause. The schedules as they were detailed in the bill and presented to the country, through the committees and the newspapers,—the schedules by which it was made believe that the promise to the country of a "downward" revision was being kept by those responsible for the bill, were only the minimum schedules. There lay at the back of the measure a maximum provision about which very little was said, but the weight of which the country may come to feel as a very serious and vexatious burden in the months to come. In the case of articles imported from countries whose tariff arrangements discriminate against the United States, the duties are to be put at a maximum which is virtually prohibitive. The clause is a huge threat. Self-respecting countries do not yield to threats or to "impertinent efforts, on the part of other Governments, to affect their tariff legislation." Where the threat is not heeded we shall pay heavier duties than ever, heavier duties than any previous Congress ever dared impose.

When it is added that not the least attempt was made to alter the duties on sugar by which every table in the country is taxed for the benefit of the Sugar Trust, but just now convicted of criminal practices in defrauding the Government in this very matter; that increased rates were laid on certain classes of cotton goods for the benefit, chiefly, of the manufacturers of New England, from which the dominant party always counts upon getting votes, and that the demand of the South, from which it does not expect to get them, for free cotton bagging was ignored; that the rates on wool and woollen goods, a tax which falls directly upon the clothing of the whole population of the country, were maintained unaltered; and that relief was granted at only one or two points,—by conceding free hides and almost free iron ore, for example,—upon which public opinion had been long and anxiously concentrated; and granted only at the last moment upon the earnest solicitation of the President,—nothing more need be said to demonstrate the insincerity, the uncandid, designing, un-

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patriotic character of the whole process. It was not intended for the public good. It was intended for the benefit of the interests most directly and selfishly concerned.

There was noticeable confusion in the counsels of the dominant party. Some said this, some said that. Many were anxious, probably a majority in the House, to fulfil in entire good faith the promise their party convention had given in its platform and the President had so frankly interpreted and repeated; others were willing, some were eager, to evade it. Their leaders led them by the way of evasion. I do not know whether they were conscious of doing so or not. It need make no difference to the country whether they were or not: it is only the fact that interests it, however the fact may affect individuals. If the leaders of the Republican party were not aware that they were seeking a way of evasion, they have an unusual capacity for deceiving themselves; if they were, they did not deal honestly by the country. Either alternative proves them wholly unserviceable and untrustworthy. We need not stop, therefore, to choose between the alternatives: for we are not discussing their characters, but the present interests of the country with regard to the tariff. The question that interests us is this: How out of this confusion of counsel was an agreement reached, and why was the agreement that which the leaders of the Houses desired rather than that which the rank and file of the party would have honestly preferred? What, when its policies are in debate within its own ranks, finally determines the course the Republican party will take in a matter like this?

I know, of course, as every one does, how great the power of the Speaker of the House is, and the great and sinister hold the chairman of the Finance Committee of the Senate has upon the legislative machinery of that body, whatever signs of apparent independence it may show in the open processes of debate. It is matter of common knowledge what Mr. Cannon and Mr. Aldrich would prefer to have the House do when any question of this sort is under consideration. But these men represent forces, they do not constitute them. The forces that control the Republican party lie outside of them. They are only the spokesmen of those forces. Why do the rank and file of the Republican members still, in this day of change, find themselves unable to make an independent choice in a matter like this,

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of capital importance to their party and to the country? They do not mistake the signs of the times. Why, then, are they impotent?

The question can be answered very frankly, and, I hope, without partisan bias and without offence to honorable men whose principles I would not presume to call in question. The Republican party is old at the business of tariff-making and has established a business constituency. Its leaders feel that they must satisfy that constituency, and they force their followers to follow them by very concrete and practical arguments. It has come to a point where they have grown very stubborn and short-sighted in their loyalty to their constituency, but that is hardly to be wondered at. The loyalty is of long standing and has become a fundamental asset, as it seems to them, of party business.

The business of tariff-making naturally grows more and more complex, naturally comes to involve a greater and greater complexity of interests. Those who conduct it extend their clientage from generation to generation, to make sure that they have clients enough. Whatever principle may underlie tariff-making, and however valid that principle may be, however fundamental to the general development and prosperity of the country, tariff schedules arranged for "protection" are governmental favors. Those who make them, though acting for the nation, are the patrons of the industries favored: they dispense the largess of the Government, and those who receive the favors will be their partisans and followers so long as the favors continue. The relation cannot be avoided. The only thing that can be avoided is the corrupting influence of the relationship, and that can be avoided only by very strong men. A political party cannot withstand it for many generations together: cannot, I mean, withstand the gradual corruption of its will,—the temptation to make use of the patronage it dispenses for the perpetuation of the power it derives from it, the unfailing support at the elections of the wealthiest and most influential classes of the country.

Here, in a protective tariff, are the entrenchments of Special Privilege, and every beneficiary will of course crowd into them on the day of battle, determined to keep his own. Shall a man not defend what he has?

I am not seeking to point a moral. Neither am I drawing up an indictment of the Republican party. I am merely outlining

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the natural history of a governmental policy whose prime object is to make particular industries safe against competition. Parties are capital epitomes of human nature; and I dare say that any other party that espoused this principle of legislation would use it for party advantage in the same way. My point is rather how it has been used than who has used it. Its uses and effects are plain,—painfully plain now. Its use is to extend to certain undertakings Government favor and assistance; its effect has been to build up special privilege. No doubt the country will have to hold those responsible who managed the business; but its real interest will not be in punishing them, many of them honest and public-spirited enough, but in getting rid of special privilege. That it has made up its mind to do. It now only seeks the best and most effectual way.

It sees plainly enough, at last, that the place to begin is the tariff. That it saw before the last Presidential election; but Mr. Cannon and Mr. Aldrich have managed between them to make it more evident than ever before. They have executed their purposes, not wisely, but too well. A day of judgment is at hand.

> "The sword of Heaven is not in haste to smite,
> Nor yet doth linger."

The purpose of the people has much the same habit. Perhaps it *is* the sword of Heaven!

It is not a question of schedules. It is possible that by reasonable schedules,—by a minimum of favoritism and make-believe,—the tariff-makers of the special session might have quieted the country,—might have induced it to let the troublesome and perplexing subject drop for a decade or two. But it would have been only a stay of judgment. The essential wrong would still have cried out to be righted. And the essential wrong is this: that, except for a few men who have been fairly hypnotized by a system which they have accepted as political gospel since their youth, it has ceased to be a matter of principle at all and has become merely a method of granting favors. The favors are obtained in two ways—by "influence" and by supplication of a kind for which there is no classical or strictly parliamentary designation. In the vulgar, it is called "the baby act."

What "influence" consists of is a very occult matter, into which the public is not often privileged to inquire. It is com-

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pounded of various things, in varying proportions: of argument based upon the facts of industry and of commercial interest, of promises of political support, of campaign contributions, not explicitly given upon condition, but often spoken of by way of reminder, of personal "pressure" through the channels of old friendships and new alliances,—of things too intimate to mention,—though not, I believe, even in the minds of the most cynical and suspicious, of direct bribes. There is seldom any question of personal corruption. It is wholly a question of party corruptions, so far as it is a question of corruption at all.

The "baby act" consists in resorting to the Ways and Means Committee of the House and the Finance Committee of the Senate with pitiful tales, hard-luck stories, petitions for another chance, as the hosiery-makers did at the special sessions. It is an act very unpalatable to American pride, and yet very frequently indulged in with no appearance of shame. "Foreigners make better goods," is the burden of its cry, "pay smaller wages, and can add the ocean freights to their price and still beat us in our own markets." It often seems to mean that the foreigner has superior skill, uses better machinery, adapts his patterns more quickly to changing tastes, is more practised in economies of all sorts and is content with smaller profits. And so a handful of American gentlemen go to Congress and beg to be helped to make a living and support their operatives. Some among them do not need the protection: they have perfected their processes and their stuffs, can afford by better organization and more studied economies to pay American wages and still beat the foreigner, if need be, in his own markets oversea. But the rest do need it to make good their failure. American labor is the most intelligent in the world, and when intelligently made use of is worth its extra wage, earns it without affecting the market. But the Government must support those who do not know how to use it as intelligently as their rivals, and the people of the country must be made to buy the goods they make at prices that will support them. This is indeed the "baby act" and these are easily recognizable as "infant industries"!

And so the question comes to be, What will the people say of this new system of the support of favored industries by the Government, now that they have come to understand it? For it is a new system. The principle upon which the system of pro-

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tection was originally founded was the development of the country, the development of the resources of the continent and the skill of the people. That principle is intelligible and statesmanlike, particularly in a new country, without capital and unprepared for competition in a trading world. The principle now proclaimed and acted upon, with show of patriotic fervor, is that profits must be assured to those who cannot stand competition after development, *after* the accumulation of capital in the country, the perfecting of skill and the full attainment of economic and industrial independence amidst the trading and manufacturing nations of the world. This is indeed a new theory and will not bear examination.

Hamilton's position, the position of those who have intelligently and consistently followed him, is defensible enough. It is idle to bid a new nation on an undeveloped continent to put its faith in the natural laws of trade and production, buy in the cheapest and sell in the dearest market, build up its wealth on the demand for what it has and buy what it has not. For it has not at the outset capital enough to find out either its resources or its capacities. There must be a waiting and a spending time at the first before it finds out what its resources are and what it can do with them. The farmer cannot expect a crop the first season from unbroken prairie or uncleared land. It costs money to put nature into shape to be profitably used. Deposits of ore do not constitute riches until the mines have been opened and machinery has been installed by which the ore can be readily and economically got out. That takes time and money. Even when the mines are opened and can be worked at a profit they produce only ore. The nation that cannot use its ores in manufacture is still a poor nation, however rich its deposits. Only a few men in it will be rich until other men in it get the capital and the opportunity to use the ores in manufacture. That, again, takes time and money. South Africa was not rich because a few men owned and worked diamond-mines in it. Taking the world at large and as a whole, how are you to know which is the cheapest market in which to buy or the most advantageous in which to sell, so long as a whole continent lies undeveloped, a whole nation untrained, so long as America or South Africa has not come into the markets with its hidden stuffs and its unschooled peoples?

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This is the question for statesmen. Nobody now doubts that the policy of Hamilton put the nation under a great stimulation, gave it the economic independence it needed, immensely quickened the development of its resources and the powers of its people. Protected from the direct competition of those who had already acquired capital oversea, who had already become masters of industry and put hundreds of ships upon the sea, who had the stuffs to work in and the skill to work them, things took on a very different aspect for the enterprising spirits of the young nation from that which they had worn in the old colony days. Those who cared to venture upon enterprise,—and who in America did not?—had the markets of a growing and industrious people to themselves. As the nation grew their trade grew, and their wealth,—with their wealth, their independence and their spirit of enterprise. It was wise,—in the circumstances it was more than wise, it was necessary,—to give the country an opportunity thus to find itself. It was necessary and wise to put it thus economically upon its own feet and make it worth its while to discover and develop its own resources.

It is perfectly consistent with such a policy, moreover, to give to every new enterprise, even in our day of America's abounding wealth and resourcefulness, such protection as it may need to get its start and come to its proper perfection of equipment and operation, provided it be an enterprise suitable to America's soil or resources or capacities. So far as the policy of protection has for its object the diversification and enrichment of American industry, it is admissible, dangerous though it be, because liable to be used in a spirit of favoritism and for party ends. The only thing not consistent with the sound original policy upon which the single defensible theory of the system rests is the encouragement and support by "protection" of industries in their very nature not natural to America, but forced and artificial. Being artificial, not indigenous from the outset, they will need artificial stimulation to the end. Those who undertake them will always have to be supported out of the public purse—by the taxes laid at the ports

But this original basis and theory of protection, this genuine enterprise of statesmanship, was long ago abandoned or forgotten by the leaders of the party that stood for the system. Its leaders no longer talk of "infant industries" to be carefully nurtured

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and brought to maturity for the sake of the nation and its development. They know the sort of smile with which such talk would now be received and do not relish the thought of it. They boast, rather, of the economic supremacy of America in the money-markets, the steel-markets, the foodstuff-markets, the implement and machinery markets of the world, and naïvely insist that that supremacy should be maintained by import duties at the ports levied for the sake of those who are conducting our successful enterprises, in order to keep their profits safely up and make them feel that the country (which is, being interpreted, the party in power) will take care of them. It is not a system of stimulation or development; it is a system of patronage. Statesmen need no longer debate it: politicians of very ordinary managing abilities can easily keep it going. Indeed, it is no proper job for statesmen. It is a thing of lobbies and private interviews, not a thing of open debate and public policy.

Even this bad system worked no radical harm upon the country for a generation or two. The continent abounded in every kind of natural riches, individuals were greatly stimulated by the many inviting opportunities for manufacture and trade, the population of the country was growing by leaps and bounds, its domestic markets widening with every decade, its diversified industries enriching one another. The country was generously big and wide and various, its immense stretches extending into every climate of the temperate zone, its hills and valleys and high ascending western slopes inviting to every development of modern civilization. Its vast areas of free trade, trade absolutely without hindrance or restriction, guaranteed exemption from restraint by the interstate commerce clause of the Constitution, made it an incomparable field for rapid and normal development, a development about which, it turned out, there was almost nothing that was artificial and little that was not sound and lasting.

Moreover, those who had undertaken the great industries to which the customs legislation of Congress had given leave had not yet gone into combination. Enterprise was entered upon on individual initiative, was conducted by simple partnerships and small companies. There was a very active and quickening competition within the field of each undertaking that proved profitable. Those who succeeded had no more power than their mere wit at succeeding gave them. Fortunes were made, but upon

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a modest scale. The rich men of the country had only their local influence and did not determine the industrial processes of a whole continent or the methods of a whole industry. The prosperity of the country wore a generous and democratic aspect and did not set classes off in sharp contrast against one another. There was favoritism in arranging the system of protection, of course, and individuals were very often thought of rather than the country as a whole. The "log-rolling" in Congress was very often spoken of in the newspapers and with a great deal of asperity. The system had its glaring faults and dangers. But it was at least a game into which almost any one could get. It did not yet wear the ugly face of monopoly or special privilege.

We look upon a very different scene now. It is no longer a scene of individual enterprise, of small bodies of capital embarked upon a thousand undertakings,—a scene of individual opportunity and individual achievement,—able men everywhere, singly or in small groups, making themselves the economic servants of communities and reaping the legitimate profit of many an enterprise their own brains had conceived. It was in that day that the industries of the country were originated and put upon a footing to succeed. In our later day those who control the great masses of capital swept together out of the multitudinous earnings of the last two or three generations have combined together and put at the head of every great industry a dominating corporation, or group of corporations, with an organization and resources which are irresistible by any individual competitor,—by any competitor not supported by a like colossal combination of brains and means. The richest of those who enjoy the favors of the Government have combined to enjoy a monopoly of those favors. Enormous fortunes are piled up for a few, for those who organize and control these great combinations; but they are relatively very few in number and all men in their field of enterprise who are not in their combination are apt to become, first their crushed rivals, and then their servants and subordinates.

It is a very different America from the old. All the recent scandals of our business history have sprung out of the discovery of the use those who directed these great combinations were making of their power: their power to crush, their power to monopolize. Their competition has not stimulated, it has destroyed. Their success has not varied industry, it has stand-

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ardized it and brought it all under a single influence and regulation,—not the regulation of law, but the regulation of monopoly.

It is easy to exaggerate the iniquity of many of the things that have been done under this *régime* of the trust and the colossal corporation. Most of their methods were simply the old cut-throat methods of private individual competition on a new scale. What made them cruel and disastrous was not their kind, but their scope. Their kind was as old as economic history and rivalry in industrial enterprise, but their scale was new and ominous. The competition, the underselling, the aggressive canvassing, the rival expenditure and rapid improvement of process possible to these men who had vast capital behind them, who shipped so much that every railroad stood ready to bid for their patronage with lowered rates, who could buy a competitor out at any price and stood always ready to buy at the moment of greatest strain and discouragement, could not be withstood. The field cleared before them. The power was theirs, and smaller men, smaller concerns, went down before them. They had "cornered" the opportunity which the Government's favoring legislation had been intended to create.

Too much moral blame, it seems to me, has been laid upon the men who effected these stupendous changes. They were men of extraordinary genius, many of them, capable of creating and organizing States and Empires. Commercial morals had not been adjusted, by themselves or any one else, to the new and unprecedented scale upon which they did business. Private consciences were pooled and confused and swallowed up in those huge combinations. Men were excited and blinded by the vast object they sought, and pursued it, as it were, impersonally, by means they would not have used had they been dealing simply and face to face with persons and not merely upon paper with complex transactions, involving the business of a continent. It was a process in which commercial morals had again to find themselves, as in the days of treasure fleets and international spoliation.

But my present object is not to assess individual responsibility. I am describing conditions, not drawing up an indictment against those who created them or framing an excuse for them. I am studying a national policy and its effects; and about that, viewed in its present aspects, some things are very plain and ought to be plainly spoken of.

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In the first place, it is plain that these new masters of our industry do not need the assistance or the "protection" of the Government. They own or control a preponderant percentage of the resources of the country: of its mines, its forests, its cattle, its railways. They have brought the industries they control to a high state of perfection in equipment and organization, economizing their processes and improving their output. They have invaded foreign markets and sell to all the world, where there is no Government to assist them, where, on the contrary, there are hostile tariffs to overcome. They have made themselves entire masters of the opportunity created for them. Manufacturers engaged in the same lines of industry elsewhere copy their machinery and imitate their methods. All the world is justly jealous of their huge success. Their balance-sheets, on the one hand, and the success and skill of their processes, on the other, show how little they need protection.

In the second place, no political party can afford to be their partners in business. It amounts to that. In the earlier days of protection, when import duties created opportunities for thousands of men, the political party that maintained the system of protection had all the nation for partner. The benefits of the system were widely distributed. Its beneficiaries could nowhere be assembled in a single lobby. Their names could be included in no possible list. They were the people of the country by sample. But now, as compared with the former thousands, they are few. The names of most of them are known everywhere. Their influence is direct, personal, pervasive.

They are doing nothing novel through the lobby. It is just what the beneficiaries of this dangerous system have always done. It would seem the natural process of obtaining protection,—to ask for it and argue its necessity with the figures of the business in hand. But they are so few, so individually powerful, and command so many things that political parties need, or think that they need, for their success: money, widely-extended influence, the gift and the use of business organization national in their scope and control! They have as powerful a machinery ready to their hand as the Government itself. It is highly dangerous for the Government to be in partnership with them in the great enterprise of developing the country: their grip upon it can so easily become too direct and personal! The country cannot

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afford an alliance of private interest with governmental authority, for whatever purpose originally conceived, however honorably arranged at the outset. No body of business men, no political party, can long withstand the demoralizing influences of the relationship,—particularly no body of men so compacted and unified in interest as those who manage and finance the trusts.

It is not necessary for my argument to claim or to prove that high protection created the trusts and combinations of our time. I believe that it can be shown that it did, though I am ready to admit that they might, and probably would, have arisen in any case, though in a different form and with different proportions. But that is a complicated question which may for the present be put upon one side. Certainly the trusts have now cornered the opportunities created by the system of high tariffs. They no longer need the assistance of the Government; and it is highly desirable that there should be no alliance, and no appearance of an alliance, between them and either of the political parties.

That our industries are still greatly stimulated is evident enough. They are very vital and very prosperous. There is general employment; and when things go well and the money-market is not manipulated, or upset by our uncommonly bad system of currency, there is a general feeling of ease and hopefulness. But there is not general prosperity: that is a very different matter. When the great industrial and trade combinations can operate freely and without fear of disturbed prices and a frightened money-market there is always ready enough employment for those who seek it,—at wages forced up and maintained, not by prosperity or the good business of the great corporations, but by the aggressiveness and determination of organized labor. The country is given occupation by those who have cornered the privileges to be had under the favor of Congress, and their success is easily made to look like the reign of unbounded opportunity for the rank and file; but that does not increase the proportion of employers to employees. The initiative and control are still with the few. Their money makes the mare go, and it is they who ride.

It does not do to think of these things with bitterness. It is not just to think of them with bitterness. They came about by natural process, not by deliberate or malignant plan. But it is necessary to point them out in plain language, to discuss them

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with candor and to comprehend them, when the talk is done, with wide-open eyes. It is easy to fall into exaggeration. Not all the industry of the country is in the hands of great trusts and combinations. Only its main undertakings are, its largest and most lucrative enterprises. But the picture I have drawn is, in the rough, true and tends from decade to decade to represent the truth more and more perfectly and completely. If the tendency had worked itself out to its ultimate consequences, if it had accomplished its perfect work, it would probably be too late for reform. The body politic is still sound and still elastic enough to work upon; and many of the very men who have profited most by this new and ominous state of affairs are ready to join in the wholesome processes of reformation which will make opportunity general again,—not a monopoly, but a universal stimulus.

The fact which has disclosed itself to us, in these later days of the country's awakening, is this, then. We have witnessed the partial creation, the almost complete creation, on the one hand, of a comparatively small privileged class or body of men, the men who control capital and the uses to which it is put and who have, as the representatives (as all too literally the representatives) of the business of the country, the ear of Congressional committees; and we begin to see, under them, associated with them, on the other hand, a vast unprivileged body ("class" is too definite and formal a word) which forces its way to a share in the benefits of our apparently prosperous conditions only by threats and strikes, and is steadily deprived of a large percentage of what it thus gains by rapidly rising prices which day by day increase the cost of living amongst us. And the rise of prices itself seems to be connected with the system.

There has been a rise in prices in almost all the trading countries. The large recent increase in the supply of gold has had a great deal to do with it, here as elsewhere. Gold, the world's standard of value, having become cheaper because more abundant, more of it is demanded in exchange for goods, whose value has not changed. But this universal phenomenon of the rise of prices has had its special features and vagaries in America utterly dissociated from the price of gold; and it would be easy to prove that those who have managed to get control of the greater part of the output of the mines and factories have, by combination, set

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the prices to please themselves. They have made the usual use of their opportunity. While the Government has, by its high protective policy, spared them the anxiety of foreign competition, they have, by organization and agreement, spared themselves the embarrassment of any competition at all.

What, then, shall we do? Shall we adopt Thorough as our motto and sweep the whole system away, be quit of privilege and favors at once, put our industries upon their own resources and centre national legislation wholly upon the business of the nation? By no means. The system cannot be suddenly destroyed. That would bring our whole economic life into radical danger. The existing system was built up by statesmanlike and patriotic men, upon a theory upon which even the most sceptical economist must concede it possible to found a valid and effective policy. It is very likely that by slower, sounder, less artificial means the country might have worked its way up to the same extraordinary development and success, the same overwhelming material achievement and power; but that is a question no longer worth debate by practical men. As a matter of fact, the method of artificial stimulation was adopted, has been persisted in from generation to generation with a constant increase of the stimulation, and we have at last, by means of it, come to our present case. It will not do to reverse such a policy suddenly or in revolutionary fashion.

It must in some conservative way be altered from decade to decade, if possible from year to year, until we shall have put all customs legislation upon a safe, reasonable and permanent footing. A process of alteration, steadily and courageously persisted in, will not disturb the business or embarrass the industries of the country, even if tariff act follows tariff act from session to session, if it be founded upon a definite principle by which its progress may be forecast and made ready for. Such a principle must be found. And the nation must find means to insist that, whatever party is in power, that principle shall be followed with courage, intelligence and integrity. The present method and principle of legislation does not keep business equable or free from harassing anxiety. It is based upon no principle, except that of self-interest,—which is no principle at all. No calculable policy can be derived from it. Discussion gives place to intrigue, and nothing is ever fixed or settled by its application.

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What, then, shall the principle of reform be which shall hold us steady to an impartial and intelligible process? The old principle of Hamilton, in a new form and application: the very principle upon which the protective policy was set up, but applied for the purpose of reforming the system and bringing it to the test of a single definite object, its original purpose and energy having been fulfilled and spent.

Hamilton's purpose was to develop America, to give her industries of her own; to make it immediately worth the while of her enterprising and energetic men to discover and use her natural resources, the richness and extent of which even he never dreamed of; to enrich and expand her trade and give her an interior economic development which should make her an infinitely various market within herself; and to continue the stimulation until her statesmen should be sure that she had found her full vigor and capacity, was mistress of her own wealth and opportunity, and was ready to play her independent part in the competitions and achievements of the world. That object has been attained. No man not blinded by some personal interest or inveterate prepossession can doubt it. What would Hamilton do now?

In one sense, it is not a question of politics. It does not involve Hamilton's theories of Government or of constitutional interpretation. Some of us are Jeffersonians, not Hamiltonians, in political creed and principle, and would not linger long over the question, What shall we do to return safely to Hamilton? It is not a Hamiltonian question. Constitutional lawyers long ago determined that it was certainly within the choice of Congress to lay import duties, if it pleased, with a view to the incidental benefit of traders and manufacturers within the country; and, if that incidental object has in later days become the chief and only guiding object of the rates of duty, that, I take it, is only a question of more or less, not a question which cuts so deep as to affect the power of Congress or draw it seriously into debate again. As a matter of fact, the policy was entered upon and has been carried—to what lengths we know. The Hamiltonian principle, not a political, but an economic principle, was the only wise and defensible principle upon which it could have been established. It is also the only wise and safe principle upon which it can be modified and in part got rid of. For when

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you have the general benefit of the country as your standard, you have a principle upon which it is as legitimate to withdraw protection as to give it.

It may seem like a vague principle, affording room for many varieties of contrary judgment; but it will be found to lose its vagueness when stated in contrast with the principle upon which Congress has acted in recent years. In all the recent tariff legislation of the country, in all legislation since 1828, the committees of the House and Senate, when making up the several schedules of duties they were to propose, have asked, not what will be good for the country, but what will be good for the industries affected, what can they stand, what rates of duty will assure them abundant profits? It is true that they have assumed,—it has been the burden of innumerable weary campaign speeches,—that the prosperity of the individual interest considered would be the prosperity of the country; but the poor sophistry of that argument has long been commonplace. By hard, desperately hard, use that assumption has been worn through to the thread. It must be replaced by new and sounder stuff. No doubt you can say to the country, "Feed and sustain these corporations and they will employ you: feed your employers out of the taxes and they, in turn, will give you work and feed you." But no candid student of this great question can now confidently believe that a policy which has the profits of the manufacturers as its main object is likely to promote the impartial, natural, wholesome, symmetrical, general development of the country.

The men who happen to possess the field do not constitute the nation; they do not even represent it when they speak of their own interest. We have taught them, by our petting, to regard their own interest as the interest of the country; but the two are by no means necessarily identical. They may be, they may not be. It is a question of fact to be looked into. Their prosperity and success may or may not benefit the country as a whole. Even if the country be indisputably benefited, it might be still more highly benefited by the promotion of an entirely different interest. What the fact is may depend upon many circumstances. It is those circumstances we are bound to look into, if we be indeed statesmen and patriots, asking not what the protected interests want or can prove that they need, but what it is to the general interest of the country to do: whether some interests have

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not been too much favored, given a dominance not at all compatible either with honest politics or wholesome economic growth. In brief, we are now face to face with a great question of fact. What part of the protective system still benefits the country and is in the general interest; what part is unnecessary; what part is pure favoritism and the basis of dangerous and demoralizing special privilege? These are the questions which should underlie a tariff policy. No other questions are pertinent or admissible.

"The benefit of the country" is a big phrase. What do you mean by it? What do you mean by "the country"? *Whom* do you mean by it? If you are honest and sincere, you mean the people of the country, its sections and varieties of climate and population taken, not separately or by their voting strength, but together; its men and women of every rank and quality and circumstance; its bone and sinew. If any particular industry has been given its opportunity to establish itself and get its normal development, under cover of the customs, and is still unable to meet the foreign competition which is the standard of its efficiency, it is unjust to tax the people of the country any further to support it. Wherever the advantages accorded by a tariff have resulted in giving those who control the greater part of the output of a particular industry the chance, after their individual success has been achieved, to combine and "corner" the advantage, those advantages ought to be withdrawn; and the presumption is that every industry thus controlled has had the support of the Government as long as it should have it.

There is something more than the economic activities of the country to be considered. There is its moral soundness; the variety, not of employment, but of opportunity for individual initiative and action which the policy of its law creates; the standards of business its trades and manufactures observe and are gauged by; and the connection which exists between its successful business men and its Government. By these significant matters should the tariff policy of Congress be judged, as well as by the tests of successful business.

Only those undertakings should be given the protection of high duties on imports which are manifestly suited to the country and as yet undeveloped or only imperfectly developed. From all the rest protection should be withdrawn, the object of the Government being, not to support its citizens in business, but

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to promote the full energy and development of the country. Existing protection should not be suddenly withdrawn, but steadily and upon a fixed programme upon which every man of business can base his definite forecasts and systematic plans. For the rest, the object of customs taxation should be revenue for the Government. The Federal Government should depend for its revenue chiefly on taxes of this kind, because the greater part of the field of direct taxation must be left to the States. It must raise abundant revenue, therefore, from customs duties. But it should choose for taxation the things which are not of primary necessity to the people in their lives or their industry, things, for the most part, which they can do without without suffering or actual privation. If taxes levied upon these do not suffice, the things added should be those which it would cause them the least inconvenience or suffering to dispense with. Customs thus laid and with such objects will be found to yield more, and the people will be freer.

There is no real difficulty about finding how and where to lay such taxes when once a just principle has been agreed upon, if statesmen have the desire to find it. The only trouble is to ascertain the facts in a very complex economic system. Honest inquiry will soon find them out, and honest men will readily enough act upon them, if they be not only honest, but also courageous, true lovers of justice and of their country.

WOODROW WILSON.

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NEW BOOKS REVIEWED.

BIOGRAPHY.

"LAURENCE STERNE," writes Heine, "is the born equal of William Shakespeare; and he, too, was nurtured by the Muses on Parnassus. But after the manner of women, they quickly spoiled him with their caresses. He was the darling of the pale, tragic goddess. Once, in an access of fierce tenderness, she kissed his young heart with such power, passion and madness that his heart began to bleed, and suddenly he understood all the sorrows of this world and was filled with infinite compassion. Poor young poet heart! But the young daughter of Mnemosyne, the rosy goddess of humor, quickly ran up to him and took the suffering boy in her arms and sought to cheer him with laughter and song; she gave him for playthings the comic mask and the jester's bells and kissed his lips soothingly, kissing upon them all her levity and mirth, all her wit and mockery."

And all these matters are fully set forth in this full and delightful Life of Laurence Sterne;* there are levity and mirth and wit and the continuous jangle of the jester's bells, together with the poetry and passion and infinite pathos of a disordered, unguided life. Sterne was a genius, and therefore to read of him is enlivening, since genius, after all, is just being a little more alive than other men, more alert to take impressions, more keen to feel, more able to produce further impressions and stimulate emotions.

From the beginning, as a neglected imp of the barracks, the frail son of an improvident ensign to the ending—a lonely death and unattended burial, Sterne's life seems to have been unguided by anything but his swift and generous impulses, his appetite

* "The Life and Times of Laurence Sterne." By Wilbur L. Cross. New York: The Macmillan Company, 1909.

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for fun and his unending interest in human nature and the shifting pageant of life. It was, however, the enthralling career of a great and conquering genius. For did not Lessing say he would gladly lay down ten years of his life to give Laurence Sterne one more in which to write? And Goethe spoke of him as the finest type of wit that ever influenced literature and as having cured him of Wertherism. It was, however, a life totally lacking in dignity. Perhaps it was too alive, too full for order; chaos is always more turbulent, more active than convention and order. At any rate, from the time when, as a neglected child, he was pushed from pillar to post, patronized here and helped a little there, through all his university career, as a Sizar in debt; his struggles for preferment in the church; his wasteful efforts at farming on a large scale; his squabbles with kinsmen and acquaintance; his unexpected and amazing literary successes; his braggart delight in social recognition and his middle-aged love-affairs, Sterne's is a lovable, fascinating, absorbing, unadmirable and unworthy personality. He had the lovable and the unlovable points of the Celt. An interesting and illuminating chapter in the Life is that on the publication of "Tristram Shandy," giving a vivid picture of a great literary success in the age of Dr. Johnson, Walpole, Garrick, Hogarth and Pitt. A second edition of the great novel was called for in a month, and the obscure country parson and bankrupt farmer found himself a month deep in social engagements, being interviewed by reporters quite like the modern author of a "best seller," being painted and sketched and made much of, while drawing-rooms rang with anecdotes of the witty clergyman who wrote the wickedest book of his age.

Very interesting, too, are the data as to Sterne's reading and his free and easy adaptations and transportations from other authors. Burton's "Anatomy of Melancholy," an inexhaustible mine, even to the present day for all thieves of ideas, lay ever open at his elbow when he wrote. His life was full and exciting; as if to offer the proper dramatic contrast at the close he died in London lodgings without a friend or kinsman near and was buried in an obscure spot in the city, whence his body was snatched a few days later and sold to an Oxford surgeon for dissection.

Alas! poor Yorick!

The present excellent biography does much toward rescuing

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the fascinating Irish genius from Thackeray's stiff disapproval, and the work is so well done that we completely forget the biographer in the charm of the subject. He has, however, been at infinite pains to gather all available material and verify all details and has given us a book more enthralling than the whole year's fiction.

The Count Lützow, who contributed to the mediæval town series the admirable monograph on Prague and who is the author of an excellent history of Bohemian literature, is the man above all others to give us a final and authoritative Life of Hus.* The fact that much of the literary work of Hus has only recently been sifted and printed makes a biography, at the moment, of special value. The old tradition that all Hus's literary activity was crowded into the last few years of his life has been exploded. Dr. Flajshans enumerates seventy-four Latin, one German and thirty-six Bohemian works of Hus and divides his writings into four periods extending over the years from 1402 to his death in 1415. The Bohemian Academy has recently undertaken the publication of the Latin works of Hus and has already included several works that had never before been printed. All this recent research has thrown new light on the great patriot and martyr who paid with his life for being in advance, morally and mentally, of his age. At odds with the wide-spread immorality of the priesthood, incensed by simony and corruption in the church and by the political subjugation of his nation, Hus, with his indomitable courage, his complete self-renouncement, led a great patriotic revolt at the same time that he laid the foundations of the Reformation and the age of rationalism. His life was noble and exalted from first to last, guided by the highest principles of rectitude and devotion to truth. The present Life, though it suffers somewhat from repetition and amassed detail, is yet scholarly and reliable and is the best English life there is of Hus.

To those who are awaiting eagerly the authoritative biography of the last representative of the greater Victorian tradition, it

* "The Life and Times of Master John Hus." By the Count Lützow. New York: E. P. Dutton & Co., 1909.

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is as well at the very outset to point to the second half of the title of this book. The present volume was presented to the publisher a week before the final illness of George Meredith* and was only withdrawn later to substitute the past for the present tense. Of birth and extraction not a word is said beyond giving the date as it stands in the biographical dictionaries and the statement that he was of Irish and Welsh parentage. His first marriage is only briefly mentioned. Apart from an industrious collecting of all the published anecdotes and criticisms of Meredith, we have nothing to thank the author for but his very inadequate and wrong-headed opinions which might helpfully have been omitted. He had already gathered together a book of this kind on Stevenson, and he is of a calibre to deal much better with Stevenson than Meredith. It takes a big man to write about such an intellectual giant, and nothing is more evident than that the Liliputian writer in this case has not the dimmest notion of the size of his subject. That he is quite blind to Meredith and his significance the two chapters on "His Poetry," "His Heroines and Women Folk," would amply serve to prove. Meredith wrote one of his most remarkable poems to demonstrate that we see in this world what we are. We should commend the master's challenge to the present collector,

> "Enter these enchanted woods,
> You, who dare."

The book makes scrappy and patchy reading and has not the structure nor continuity of a biography. It is, in fact, the invasion of cheap journalism into the preserves of literature. All unity of impression is broken by balancing contradictory estimates, and the point of view is shifted often enough to keep the reader dizzy. A mass of matter, good, bad and indifferent, has been thrown together with no mind to assimilate and set it together. If the material had been several times boiled down, allowed to simmer a year, then skimmed by a skilful hand and what was worth while made into a book, it would have been valuable.

Despite the fact that for the eager who treasure every anecdote, every recorded word of George Meredith, this book furnishes a wonderful witness to the dulness of critics and the chance re-

* "George Meredith: in Anecdote and Criticism." By J. A. Hammerton. New York: Mitchell Kennerley, 1909.

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viewer, it is not the less reprehensible that our greatest should be so irreverently handled. It is enough to recognize with Robert Louis Stevenson that here was a man "built for immortality."

None who care for the early history and the daily annals of cur country can afford to overlook Miss Porter's racy account of Anne Royal,* who, born in 1769, lived, looked, travelled and wrote up to a week or so of her death in 1859. She was fearless as a talker, writer and thinker and was far in advance of her age. She was a pioneer woman journalist, a Unitarian, and stood even in her earliest days for sound money, Sunday mail transportation, liberal immigration laws and religious liberty; she, of course, paid the penalty of such free exercise of her mind. She was arrested and tried as a common scold in 1829, but survived this and many other persecutions and trials, including dire poverty, with unbroken spirit. "When will the people be delivered from an implacable God, an omnipotent Devil, an endless hell!" she exclaims, at a time when these tenets were among the most treasured solaces of the human heart.

Her early pen-pictures of New York are delightful, and it may still amuse New-Yorkers to hear that so long ago it was recorded that the business which pours in upon them like a flood leaves them no time to cultivate the graces; that the ladies of New York think more of style than of literature, and that ladies in New York do not read owing to their many other sources of amusement. These pen-pictures of Anne Royal cover a host of important and well-known personages from George Washington to Abraham Lincoln and many ancestral portraits flattering and otherwise may be culled from the book. Miss Porter has proved herself an able and sympathetic biographer of this delightfully human and interesting woman.

TRAVEL.

To only two criticisms are these little conferences by Georges Cain† open: the title is a stupid one for such a delightful book,

* "The Life and Times of Anne Royal." By Sarah Harvey Porter. Cedar Rapids, Iowa: Torch Press, 1909.

† "Walks in Paris." By Georges Cain. Translated by Alfred Allinson, M.A. New York: The Macmillan Company, 1909.

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and the title-page should carry the date of writing—1906. For Paris changes every year, and sad little foot-notes even on these pages tell of the demolition of what the author has just described. These walks and talks among out-of-the-way parts of Paris were written for Frenchwomen and presuppose all the history of France, but the translator has helped out with some concise good notes of his own on matters which should be of every-day knowledge, but too rarely are. And the pictures, the maps, the charming freshness and colloquial ease of style are proper to no one country. The illustrations are mostly from old prints, and if the critic were allowed a third suggestion it should be that the artists' names were set down where known. He may recognize here a Raffet and there a Meyron, but he would like to know as many as might be. The maps present by a peculiarly ingenious device the lines of the modern square or quarter indicated in red on a transparent leaf that folds over the ancient plan, so that comparison is clear and easy between what was and what is. M. Cain is the director of the quaint Musée Carnavalet, a sort of reliquary of past ages, a treasury of manners and customs, a conscious kitchen-midden which preserves for posterity old cooking-pots, old shoes, old caricatures even. Nobody knows so much about Paris as he or in so living a way; when he is dead it will be as if some old great building were torn down—of few men may that be said. He knows not only all of Paris in brick and stone, he has known all of Paris living; he is the son of the house, he is your delightful host, he is full of family anecdotes. He has the incomparable faculty of making you feel, for the nonce, as if you too were of the family.

Germany in the Middle Ages had a law that only the nobility might wear velvet and pearls. There should be a like law that only the spiritually elect may write on certain shrines of beauty: the East and Oxford, for instance, Bruges, Châtres and Siena. The pity is that, it would seem from the preface,* Ferdinand Schevill loves Siena and longs to make an offering of a sweet savor. But Ferdinand Schevill is like the man in the parable

* "Siena: the Story of a Mediæval Commune." By Ferdinand Schevill, with illustrations and maps. New York: Charles Scribner's Sons, 1909.

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who sat down in the wrong room. The heavy, stodgy volume, in a dreary brown cover, has an odd and very unpleasant smell of paste and cloth. It will be an offence in the nostrils, spiritually speaking, as well, of whoever loves the Middle Ages, or the imperial ideal of Dante, or the aristocratic ideal of all supremely strong and loyal men, or the subtle and passionate spirit of beauty and worship interfused, present everywhere in Italy, but burning in this city with a clearer flame than elsewhere for more than five hundred years. Such might call him, if they were charitable, a good creature, but rather stupid. He blames his people for the pressure of his own economic laws and quite misses the psychology of the race he is studying. He does not apparently conceive that liberty and democracy are not invariably equivalent, nor see that no one ever wished a pure democracy, except the class at the bottom. The frank hatred of feudalism, amounting almost to terror, is rather droll: not so amusing the smug satisfaction with modern ideals and modern methods, the canting disapproval of whatever ways are not as our ways. Now and then speaks out the very "Protestantism of the Protestant religion," but to this must be forgiven something for the good blows struck at other cants: for instance, in characterizing "that unloveliest period of Italian history, the Counter-Reformation." Such a slip as calling Ananke a god betrays a little the parvenu intellectually, as one might have expected. The chapters on art are mainly paraphrases from Mr. Berenson, with a little of Mr. Langton Douglas thrown in to flavor the dish, and the author is unfortunate in the point at which he diverges from his leaders—the value of Duccio's paintings as representation. Duccio it happens, painted the most moving account of the Passion ever set down, and good Protestants and Dissenters have been known to carry their Testaments to the *Opera del Duomo* and read the Evangelists before the altarpiece by way of spiritual edification. Does it seem unkind to bid Ferdinand Schevill with shame to take the lowest round? The fault is his who, purblind, tried to treat that living sorceress, Siena, as a cadaver and demonstrate on her beauty his own notions of political economy and history and demography. Only those may safely approach her who are hierophants of beauty, purified by a long discipline of selection and distinction, a pursuit of all that is most unlike this author's dull idol of democracy.

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The speech of Mr. Hutton* betrays him; it is not a wholesome vocabulary. It is the madman, we know proverbially, who scents madness everywhere; perhaps it is the hysteric who sees so much hysteria. We have his own word that Umbria is his proper country, not Tuscany, and that is a mighty significant word. It stands for everything—Baglioni tyrannies, flagellant processions, Aretine poetry. For the sake of the name Tuscany, critics over here will be comparing this book with Mr. Hewlett's Road and Earthworks: of a truth there is more than the name to compare. It would seem that the elder adventurer had influenced our author, or is the likeness only temperamental? We perceive somehow in both a speck, a little taint: "all is not sweet, all is not sound." But one hopes to see that outgrown, like a sort of spiritual green sickness, dominated in the end by one or another of all the divine and healing influences of which this very book is so full—the beauty of della Robbia altarpieces, for instance, that of running water and flowers and the forest, and especially that of wide and lovely landscape. Of course Mr. Hutton still imitates Pater rather boyishly and all too closely—take the sentence, very lovely in itself, on page 114, and one could go in the dark and put one's hand on the volume and open at the very page which that recalls! But since in Pater there is no speck, and his pages are all fresh and comely as fair linen, there is no harm in that influence. Another, as good and more to the point, is that of Mr. William Heywood, who has supplied much more than the notes to the book, and the reader wishes even yet that he had doubled his part. He will not strengthen Umbrian hankerings, for was it not Mr. Heywood who summed up Perugia and dismissed it once as the city whose Piazza was "the fag-end of a stradoccio"? Somebody is needed, however, to make Mr. Hutton look longer at pictures and more keenly. Not so lightly should he dismiss Asciano, which contains the best work of a painter second rate, indeed, as a rule, but first rate in this divinely lovely high altarpiece—Domenico di Bartolo. But on the whole, what with Mr. William Heywood, and the late Walter Pater, and Monte Amiata, and Mr. Hutton's own rare and exquisite gift for rendering landscape, this turns out rather a wonderful book redolent of the sun and the Tuscan soil and the sense of deep

* "In Unknown Tuscany." By Edward Hutton. With notes by William Heywood. New York: E. P. Dutton & Co, 1909.

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forest; the sort of book which will keep the reader awake all night afterwards to remember the shrilling cicadas and the stars that burn midway up the depths of heaven, and the wind that talks among the little silvery leaves of olive-trees. Mr. Hutton plays on his little pipe, and the reader follows, follows into unknown Tuscany.

FICTION.

A very powerful and swift-moving novel is this of Mr. White's,* cut right out of the very heart of modern life, the questions of the day; it shows the operations of frenzied finance and the revolt of the masses against the greed and irresponsibility of quickly won wealth and unscrupulous business methods. With keen psychological analysis, truth, courage and relentless logic, Mr. White follows up the career of the man whose god is Mammon and whose goal is personal power. Very vividly is the picture drawn of the awakening of the people, the new consciousness that life includes all men and religion, all souls, and that the only power is service and the only distinction character, and that the day is at hand when all secrets are cried from the house-tops and only truth and honor win out in the long run.

It is only a question as to whether Mr. White is not a little too tender to his "Certain Rich Man," whether it is possible to repent in one year of the callousness and crimes of fifty years, and whether the wonderful phenomenon of a millionaire willing to be poor and deliberately making himself so is not taxing the powers of credibility too heavily. After all, till one sees the camel going through the needle's eye, it will be difficult to have faith enough to see the millionaire laying down his millions. But of a novel so enthralling, vivid and exalting, we can offer no word but praise and a plea for more of the same order of merit. We sincerely hope that Mr. White, who is a seer and writer of exceptional powers, will not let success bribe him into writing swiftly or carelessly and into producing less sincere work hereafter than "A Certain Rich Man."

* "A Certain Rich Man." By William Allen White. New York: The Macmillan Company. 1909.

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WORLD-POLITICS.

LONDON: PARIS.

LONDON, *September, 1909.*

THERE has never been anything like it. Here we are in September and Parliament has not yet adjourned. What is more, it is not likely to adjourn for at least another month or six weeks. It is four months and more since Mr. Lloyd George delivered his Budget speech, yet less than half his proposals have thus far been adopted by the House of Commons. The closure has been resorted to; all-night sittings are becoming almost as common a feature of Parliamentary life as they were in the early eighties; but still the Budget drags on.

When the Budget was first introduced I gave an outline of its provisions in these pages and added that, while it was destined to arouse fierce antagonism among a multitude of formidable interests, it ought to be popular with the great majority of the middle class and was certain to be popular with the masses of the people. I do not think the developments of the past four months have shown this forecast to be wrong. The more the Budget has been discussed the more decidedly has the predominant opinion of the country inclined towards it. The Unionists started a Budget Protest League to stir up hostility against it. The Liberals at once retaliated with a Budget Defence League on a far ampler scale The two Leagues have been threshing the matter out at public meetings all over the kingdom, and no dispassionate looker-on who has followed their respective campaigns can be in much doubt as to which enlists the greater enthusiasm and support. It has happened time and again that meetings summoned to protest against the Budget have been captured by Liberals and that resolutions opposing Mr. Lloyd George's pro-

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posals have been voted down in favor of resolutions endorsing them. I pick up to-day's papers and find that yesterday no fewer than four anti-Budget meetings were thus transformed. Perhaps it may help Americans to assess the popularity of the Budget at its true value if I compare it for one moment with the popularity of President Roosevelt. It was perfectly possible for an Englishman to visit the United States a few years ago, to talk with capitalists and financiers, with eminent lawyers, with the heads of gigantic businesses, with railway directors and Trust magnates—and not hear a word, except in bitter disparagement of President Roosevelt and his policies. In the same way it would be easy for an American to come over to England to-day and discuss the Budget with landowners and brewers and stock-brokers and motorists; indeed, with almost every well-to-do person he chanced to encounter and hear nothing but abuse of it. But if he were to infer therefrom that the antagonism to the Budget was the expression not of a class, but of a people, he would fall into precisely the error committed by those who could not see that the hostility of this interest and of that towards Mr. Roosevelt was more than balanced by his popularity with the nation at large. The trend of English opinion is, as a rule, a most baffling thing to gauge, but in this case I feel no doubt or hesitation in asserting that the mass of Englishmen regard the Budget not merely with approval, but with enthusiasm. It would be odd if it were otherwise, for, except in his luxuries and superfluities, his tobacco and his whiskey, the Budget scarcely affects the poor man or the man of moderate means. It is mainly those with incomes of $10,000 a year and upwards who are made to feel its weight directly in the form of a higher income tax, increased death duties and stamp duties and new taxes on motor-cars, petrol and land. That is to say, the burden is laid on the broadest backs; the necessaries of life escape untouched; and practically every penny raised by taxation goes into the State Treasury. A Budget that squares with these three vital principles of finance—every one of which would be violated were the Unionists to come into power with their panacea of Protection—is a Budget for which any one, knowing England, might have foretold a favorable reception.

At the moment of writing the House of Commons is engaged in discussing the licensing clauses of the Budget. They are extreme-

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ly technical and complicated, but their net effect is to establish a scale of duties which for the first time will make the owners of licensed premises pay in proportion to the real value of the monopoly given them by the state. It is not, however, around these, but around the land taxes that the fiercest struggle has raged. It is the land taxes that led Lord Rosebery to describe Mr. Lloyd George's Bill as not a Budget, but a Revolution; and it is the land taxes that will be responsible for the rejection of the Bill, if it is rejected, by the House of Lords. Yet there is nothing in these taxes that other countries, under far less provocative circumstances, have not already adopted. What Mr. Lloyd George proposed and what the House of Commons has agreed to is the levying of a duty of twenty per cent. on the increment value of all land except agricultural land and holdings under $2,500 in value—the yield of the tax to be divided between the national Exchequer and the local authorities. The valuation will be made by the Government, at a cost, it is estimated, of about $10,000,000, spread over three or four years, and landowners are guaranteed a right of appeal to the High Court. In the second place, Mr. Lloyd George has levied a duty of ten per cent. on the value of the benefit accruing to a lessor at the determination of a lease. Thirdly, he has clapped a duty of one halfpenny in the pound—that is, one cent in every five dollars—on the site value of undeveloped land, exempting therefrom land worth less than $250 an acre, agricultural land, and parks, gardens and open spaces.

As I have said, there is nothing in these proposals that is not a commonplace with economists the world over. The increment duty does no more than assert the right of the community to take a fraction of the wealth created by the community; the tax on reversions hits at one of the most mischievous features of the English leasehold system; and the duty on undeveloped land is designed to break up the common practice of throttling the growth of a town by refusing to sell vacant land at a reasonable price. Instances of the gross extortion legally practised by English landlords under the present system have poured in from every side. There is scarcely a town in the kingdom that has not its tale to tell of development thwarted and of the community mulcted by the neighboring landowners. There is scarcely a tradesman anywhere who has not had to complain of the demands and exactions made upon him when the lease of his business

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premises has fallen in. The prospect of freedom and expansion opened up by the Budget has, therefore, powerfully appealed to the common sense and equity of the masses. And the appeal is strongly reinforced by a Bill introduced by Mr. Lloyd George to run in harness with his Budget. This is the Development Bill now under discussion in the House of Commons. It cuts clean athwart the old *laissez-faire* maxims which hitherto have kept the British Government from lending an active hand to the work of material development. The Development Bill allows the Treasury to make free grants and loans for developing forestry, agriculture and rural industries, reclaiming and draining land, constructing and improving harbors, developing and improving fisheries. For these purposes sums that will vary from year to year, but that are not likely in any given year to amount to less than $5,000,000, are set aside. The second part of the Bill devotes the money to be raised from the taxation of motor-cars and petrol to the improvement of the road system of the United Kingdom. Thus the work of material development is furthered negatively by removing the shackles imposed upon it by an obstructive landlordism and positively by furnishing the means for schemes of practical betterment. It only needed the combination of these two purposes to insure the enormous popularity of the Budget with the people as a whole.

But the landowners, the rich, and especially the Dukes, do not like it. They denounce it as confiscation, as the first instalment of Socialism, as leading direct to the nationalization of the land. The papers are filled with their wailings. If the Budget passes they threaten to cut down their household staffs, diminish their subscriptions to charities, turn their pensioners adrift and resort to any other device that occurs to them for convincing the nation, and especially their own tenants and dependents, of the folly of Mr. Lloyd George's proposals. Unquestionably the feeling against the Budget among the conservative and well-to-do people is both deep and bitter. Nor is it politically impotent, for these are the people who control the House of Lords, and the assent of the House of Lords to the Finance Bill is necessary before it can become law. The question, therefore, that every one in England is pondering is whether the Lords will accept the Budget or reject it or return it to the Commons with the most obnoxious clauses—those relating to the land—struck out.

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The question is important politically and it is important constitutionally. As to its constitutional aspects, I think it moderately safe to say (1) that the House of Lords cannot amend a money Bill; (2) that they have a legal right to reject a money Bill, just as the Sovereign has a legal right to refuse his assent to a measure passed by both Houses of Parliament; and (3) that this right has not been put in force for some three hundred years and that to exercise it to-day would undoubtedly be regarded by the moderate opinion of the nation as highly and dangerously unconstitutional. "It would be," said Mr. Winston Churchill on September 4th, "a violent rupture of constitutional customs and usages extending over three hundred years and recognized during all that time by the leaders of every party in the State. It would involve a sharp and sensible break with the traditions of the past; and what does the House of Lords depend upon if not upon the traditions of the past? It would amount to an attempt at revolution not by the poor, but by the rich; not by the masses, but by the privileged few; not in the name of progress, but in that of reaction; not for the purpose of broadening the framework of the state, but of greatly narrowing it. Such an attempt would be historic in its character, and the result of the battle fought upon it must inevitably be of a final and permanent character. The result of such an election can only mean an alteration of the veto of the House of Lords. If they win they will have asserted their right not merely to reject the legislation of the House of Commons, but to control the finances of the country. If they lose we will smash their veto to pieces." I do not think Mr. Churchill has in any sense understated the gravity of the issue that in a few weeks may conceivably be convulsing Great Britain. Undoubtedly a majority of Unionists in the Upper Chamber desire the rejection of the Budget and are prepared to run the necessary risks. Undoubtedly a constant and severe pressure is being brought upon their leaders to sanction this extreme and perilous course. All parties are preparing for the general election that would follow swift upon the rejection of the Budget by the Lords; and there is a feeling in the air that grave and memorable events are pending. I cannot yet bring myself to believe that the Peers will take a step fraught with such momentous results to the Constitution and such disastrous results to the privileges and prerogatives of their own House.

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PARIS, *September, 1909.*

HAS English opinion been quite fair to M. Clémenceau? I do not mean to say that the British press has judged the ex-Premier with undue severity—nothing would be farther from the truth—but everybody knows that in England more than anywhere else the tone of the press often mirrors a certain ideal rather than the feeling of the country, and it seems to me that the cultivated Englishman has been more influenced by M. Clémenceau's fall, which had in it a ludicrous element, than by the results of his three years' government, which are serious and durable. Perhaps the paradox of a friend of England overthrown by the martyr of the *entente cordiale* is responsible for the point of view generally adopted; this apparent piece of incongruity may have confirmed many Englishmen in the notion that there is something rotten in the state of French politics; perhaps also the sight of a statesman losing his temper like a Socialist deputy in a meeting of anarchists appeared irreconcilable with the English sense of fitness of things. Whatever the cause may have been, it is certain that all mention of M. Clémenceau's name is met by a dubious smile which is more unjust than many a criticism.

There is no doubt that M. Clémenceau's hot temper, after terrifying the Chamber like a class of little boys for years, was bound to turn against him; no doubt, either, that his principles as a ruler—for such he was—could never be at one with his own past as a deputy, but realities often manage to exist, in spite of speculative impossibilities. We ought not to forget that Clémenceau the Prime Minister was as different from himself as a Prince of Wales from a king of England and cannot but appear in history as a man who used rare gifts in the devoted service of his country. When all is said it cannot be denied that France feels wonderfully more like her historical self to-day than four years ago, and that this is largely owing to the lucidity of intellect, decision of attitude and patriotic pride of the first man who, after three decades of pure logomachy, resolutely turned his back on politics and had the common sense of testing every idea arising in a Parliament which is a very hot-bed of theories by the good of the country. It is incredible how quickly such a simple move dwarfed pretenders of the Jaurès type who were passing themselves off as giants. The days are not long past when who-

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ever refused to adopt the latest views on morals, patriotism or economics was disdainfully shelved as belonging to the "Opposition." Such men as Jules Lemaître and Brunetière, to say nothing of Bourget, saw a sudden eclipse of their popularity follow statements which, at least in the case of the two writers first mentioned, were remarkably temperate. To-day even such extremists as the Royalist writers in the "*Action Française*" get a hearing when they choose to reason and not vituperate. The country seems to be passing from the empty prating of youth to the considerateness of manhood. Of this salutary change the credit belongs in part to M. Rouvier, but mostly to Clémenceau. Both had realized, while war with Germany was within a hair's breadth, that it was very well to feed a country on moonshine theories of international good-will resulting in amateurish organization of the army and navy by Pelletans or Andrés, as long as peace seemed to be a certainty, but when France was at stake mere talk became criminal. M. Clémenceau had the talent to impress the public with a sense not only of the dangerous avidity of the socialist doctrines, but of their ludicrousness as well. A statesman of equal power who had not been such a master of irony might have appeared only grandiloquent. M. Clémenceau embodied the Gallic temperament in almost all its aspects, and this gave him the magnetism which, in spite of his frequent harshness and occasional coarseness, he undoubtedly possessed. Had he done nothing, except bring the French back to their traditional aversion to high-flown speeches on every-day matters, he ought to be looked upon as a highly beneficent influence.

But the return to common sense which he inaugurated has been fruitful of results which, even if they are not always tangible, are of immense promise for the future. France has no footing in Morocco, but her foreign relations have been vastly improved by the Moroccan expedition. Her naval plans are only just being settled, but the anti-militarism which was rampant under Combes has disappeared from the army and is losing its strongholds one after the other. The parliamentary system is still imperfect and corrupt, but the deputies themselves confess it. The Church is still under disabilities, but the atmosphere of the country is no longer an atmosphere of persecution. I could go on with this enumeration. In every quarter we see

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good resolutions, nay, good beginnings, which, though difficult to notice from outside, are, however, realities. No one who has followed the progress of French politics during the last four years will imagine that M. Delcassé was actuated in his attack against M. Clémenceau by pure patriotism. His interference reminded us of the wretched Combes period when, it is only fair to say, he was the only Minister who did not place his politics before his duty.

The chief proof of the exceptional vitality of Clémenceau's government is to be found in the Cabinet of his successor. If the ex-Premier had had a casting vote in this remodelling he might have chosen different men, but he would not have taken exception to any of the new Ministers. Their spirit is his spirit. Some opposition newspapers and a few foreign periodicals have spoken of M. Briand's Cabinet as a Socialist Government, the Prime Minister and two of his colleagues, viz., MM. Millerand and Viviani, being supposed to be Socialists. This is a fallacy which ought to be disposed of at once. The present Cabinet is not Socialist, and, if anything, is rather the reverse. A Socialist Cabinet could not, of course, be the plaything which the collectivist dreamers long for. What is meant by the phrase is only that it would take its watchword from M. Jaurès. Now the only Minister who keeps up a semblance of amity with M. Jaurès is the Minister of Labor, M. Viviani; and their relation is rather one of community of views on certain reforms than of actual intercourse and definite agreement. The Socialist programme is comprehensive enough to include the views of several fractions in Parliament decidedly antagonistic to them. Of M. Millerand it is enough to say that he has been solemnly excommunicated both by the Socialist party and by the Masonic Lodges quite five years ago when he took sides against General André in the delation affair. We have, therefore, to pronounce exclusively on M. Briand's Socialism, and the decision is easy. M. Briand, like M. Clémenceau, is a Premier whom his past will never impede, but who will occasionally be embarrassed by it. In his inaugural address the new Prime Minister made ever so veiled an allusion to a youthful adventure which robbed him of his liberty during a few months when he was about five-and-twenty. The story of this imprisonment could not very well be told in English, but the opposition papers constantly hint at it in plain

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French, and the remainder must be extremely unpalatable. This is nothing. M. Briand was a very decided Socialist when he first left his petty office at Pontoise to launch into politics, and he—not foreseeing his brilliant future — occasionally adopted the violent language in daily use among his co-religionists of those days. Of course he was an anti-militarist, and he had the misfortune one day to commit himself before a large audience to the statement that "possibly the soldiers' guns would not be fired in the supposed direction" in case of a war or an insurrection. In many another country such things would be altogether irreparable, but in a land of free speech and passionate eloquence, where a secretary of the Commune becomes a M. Méline—the most conservative of Prime Ministers,—and where a peaceful professor will evolve into a Jaurès, shifts of opinion are absolved just by being called changes of standpoint or by a reference to Renan's maxim that only fools are invariable.

Certain it is that when M. Briand is being called an immoral man and a dangerous anarchist he has only to shrug his shoulders and need not at all think himself bound to the mistakes of his youth. He thought little of proprieties before reaching manhood and little of duty before reaching power, no doubt, but life has been kind to him: he was a Minister at forty-two and is a Prime Minister at forty-seven; such Providences surely are enough to bring about great conversions, and even M. Briand's opponents fully realize it. His life previous to his coming into office belongs to anecdote: history can only claim his recent development. His characteristic is intelligence, and the characteristic of his intelligence is not unbending firmness backed by biting irony like that of his predecessor, but flexibility and even pliancy on occasions to the verge of cheapness. He is one of those men whom duty alone could never attach, but who can see the beauty of an attitude and be seduced by it into energy. It would be worth the while of a philosopher to make a psychological study of M. Briand's action during the two years' crisis of the Separation of Church and State. He did not recoil from the fundamental wrong which involved confiscation and breach of contract, but nobody could have leaned more uniformly towards broad-minded fairness in the adjustment of details. His sense of proportion is no doubt shocked by every appearance of narrow partisanship.

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He was one of the first intelligent Socialists to notice that the vague politics of Jaurès were quickly losing freshness and growing commonplace, while Clémenceau's "realism," as he calls it, seemed an elegant novelty. The moment he took office there could be visible in him a good deal of the lawyer's second-rate smartness, but no idealism. His former friends were not long in noticing it in their turn and anathemas soon followed. Those who call M. Briand a Socialist have probably not read the parliamentary reports in which the word "turn-coat" is hurled at him hundreds of times from the very benches where he used to sit, and they must have overlooked an important passage in the address I was quoting above. There had been a rumor that a Socialist deputy would ask him on his first appearance in the Chamber what he called himself politically. No such indiscretion was committed, and M. Briand congratulated his opponents, or rather enemies, on their reticence, "as," he said, "his own dignity would have prevented him from giving any answer whatever." The semi-evasion is characteristic of the man and throws abundant light on the nature of his Socialism.

The short and the long of it all is that M. Briand is not regarded as a Socialist by anybody in the Chamber, that he has frequently found M. Jaurès in his way as a Minister of Justice, and that he has behaved as Premier exactly as Clémenceau would have done.

It is important to note that the Chamber's attitude towards him was exactly what it used to be towards his predecessor. He formed his Cabinet with amazing rapidity, in complete independence and with an originality suggestive of what mathematicians term an elegant solution. The wishes of the Socialists were entirely disregarded; a general and an admiral were introduced in defiance of the so-called republican tendency; M. Caillaux, who had been the veiled enemy of Clémenceau, was dismissed, in spite of his intimate connection with the Income Tax, and the Radical group numbering three hundred and twenty—that is to say, the majority of the Chamber—only looked on. Nothing is more indicative of a new spirit in Parliament than this attitude of the Radicals. M. Combes made it a fundamental principle never to take a step without their agreement; M. Clémenceau simply forced his will upon them; M. Briand, knowing their absolute impotency, consults them, and they give no answer. Their chief,

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M. Lafferre, complains mildly that the new Premier has not taken their numbers into consideration in his distribution of portfolios, and the new Premier gives them full satisfaction by averring that he has the deepest respect and even veneration for M. Lafferre. Some deputies laugh, and M. Briand declares he is in dead earnest. At the same time he claims most emphatically the right for a government to govern, and the whole House—excepting, naturally, the sulky handful on the right—cheers him. All this is an evident demonstration that under M. Briand, as under M. Clémenceau, fear of responsibilities in possible diplomatic difficulties and fear of the rising Syndicalist power hold the Chamber and make them tame councillors where they used to be supercilious masters. M. Briand is only a more flexible Clémenceau who will never lose his office by losing his temper. Whether an excessive display of smartness will not some day give as much offence as Clémenceau's hastiness is another question.

As to the immediate intentions of the new Government, they are exactly those which have been familiar to us for three years. M. Briand confesses that the reform of Parliament and of the electoral system is a necessity, but he thinks it safer to defer the reform till an experiment of it has been tried in the municipal election, a far-off event. Even in the absence of M. Caillaux he maintains the principle of the Income Tax. Finally he insists on a legal status being given at once to state servants, and it is evident that this Bill is nearest his heart. On the whole, we ought to be pleased. It is to be regretted that an important reform like that of the electoral system should be practically deferred; but the Official Status Bill is a large human conception, which it is refreshing to find foremost in a Ministerial declaration when one remembers so many others read since 1880. The measure of our progress lies in such comparisons and contrasts. The spirit of the short-lived Cabinets of yore was tinged with the most oppressive belief in the supremacy of the state and the right of Governments to ignore individuals and to crush them by the million in the defeated party. No such thing in M. Briand's programme: no idealism, no flourish of warlike trumpets, no threat of coercion or revenge; only the well-being of the citizen seems to be considered, and the sense of the difficulties in the way of progress is present everywhere.

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